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CELEBRATED

NAVAL AND MILITARY TRIALS.

CELEBRATED

NAVAL AND MILITARY

TRIALS.

BY PETER BURKE,
Serjeant-at-Law.

AUTHOR OF "CELEBRATED TRIALS CONNECTED WITH THE ARISTOCRACY," AND OF "THE ROMANCE OF THE FORUM."

LONDON:

WM. H. ALLEN & CO., 13, WATERLOO PLACE, S.W.

1866.

To his Friend,

JAMES HOLBERT WILSON,

WHOSE TASTES ARE SO CONGENIAL WITH HIS OWN,

THE AUTHOR,

WITH MUCH PLEASANT REMEMBRANCE,

INSCRIBES THIS VOLUME.

3, Serjeant's Inn,
Christmas, 1865.

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CELEBRATED TRIALS,

CONNECTED WITH THE ARMY AND NAVY.

ADMIRAL BENBOW AND HIS TREACHEROUS CAPTAINS.

THERE was, before the time of Rodney and Nelson, no name more popular among the sailors of the British navy than that of Admiral Benbow. He had been a sailor himself, and he was, while living, the sailors' idol; and since his death his memory has been held in much reverence by the Jack Tars of that and every succeeding age. The thorough sagacity, honesty, and gallantry he displayed in his many daring ventures had taken, too, with the general public: and "old Benbow," as he was familiarly called (though really never an old man) was looked on as the model of a rough and real British seaman, suited for all weather and all war. He and his

deeds have been the subject of many a naval song* and story, and his likeness was formerly a common sign for public houses throughout the country. Moreover, to this day, the portraits of the admiral in the town hall of Shrewsbury, and in Greenwich Hospital, and his stalwart visage still to be seen, here and there, in front of some rural inn; and more than all that, the many yarns about him, show that even amid the greater glories of Keppel and Duncan, Rodney and Nelson, old Benbow is not forgotten. Admiral Benbow, though he had to make his own way, came, according to his biographers, from a branch of an ancient and honourable line,—the Benbows of Newport, in the county of Salop; but, singular to say, much obscurity hangs about his immediate parentage. In the Civil War his family of Benbow was Cavalier, and sacrificed life and property in bravely sustaining the royal cause. Colonel Thomas Benbow and Colonel John Benbow, generally understood to be,—the former uncle, and the latter father, of the admiral, were, it is related, both men

* Dibdin uses his name freely: here is a specimen from his "Peter Pullhaul's Medley."

"When grown a man I soon began
To quit each boyish notion;
With old Benbow I swore to go,
And tempt the waving ocean.

"Ten years I served with him, or nigh,
And saw the gallant hero die;
Yet 'scaped each shot myself, for why?

"'There's a sweet little cherub that sits up aloft,
To keep watch for the life of poor Jack.'"

of estate, and both officers in the army of Charles I. They were in the military service of the crown prior to the murder of the king, and afterwards fought at Worcester, and were made prisoners at or shortly after that engagement. Much discrepancy occurs as to the exact result of their capture. The usual biographies we find of Admiral Benbow will have it that the elder, Colonel Thomas Benbow, was shot at Shrewsbury on the 15th, 17th, or 19th of October, 1651, and that Colonel John Benbow made his escape. I, however, on referring to the State Trials, find that a *Captain* John Benbow (he may have never been colonel, or his promotion of colonel might be looked on as illegal in the eyes of the Commonwealth) was tried on the 1st of October, 1651, by a Roundhead court-martial, and had the honour of having, on that occasion, two important fellow prisoners, viz., the brave royalist, Sir Timothy Fetherstonhaugh, and the illustrious Earl of Derby. The earl and Sir Timothy were sentenced to be beheaded,—the one on the 15th of October, 1651, at Bolton; and the other on the 22nd of the same month at Chester; and Captain John Benbow was sentenced to be shot at Shrewsbury on the 15th of the same month. The earl and Fetherstonhaugh, as every one knows, died pursuant to their sentences; but I find no statement, in the State Trials at least, that John Benbow was actually executed. Could it be, if this account is to be sustained, that Colonel Thomas Benbow was shot by sentence of some previous court-martial, and that John escaped from the judgment to be put in force at Shrewsbury? However, whether from that judgment or not, escape he must have done,

if the following story refer to him, which, however, is doubtful. He, it is said, lived during the Commonwealth in concealment, his land being forfeited; and the Restoration found him poor and broken down, and glad to accept a small ordnance post in the Tower of London. Here he was, when his death is reported to have occurred in a very affecting way. It happened that a little before the breaking out of the first Dutch war, King Charles II. came to the Tower to examine the magazines, and his majesty there cast his eye on the colonel, whose appearance had become venerable by a fine head of grey hair. The king, whose memory was as quick as his eye, knew him at first sight, and immediately came up and embraced him. "My old friend, Colonel Benbow," said he, "what do you here?" "I have," returned the colonel, "a place of fourscore pounds a year, in which I serve your majesty as cheerfully as if it brought me in four thousand." "Alas!" said the king, "Is that all that could be found for an old friend at Worcester? Colonel Legge, bring this gentleman to me to-morrow, and I will provide for him and his family as it becomes me." But, short as the time was, the colonel did not live to receive, or so much as to claim, the effects of this gracious promise; for the sense of the king's gratitude and goodness so overcame his spirits, that, sitting down on a bench, he there breathed his last, before the king was well out of the Tower.* John Benbow, the future admiral, was fifteen

* In Owen and Blakeway's History of Shrewsbury, the ancient descent and parentage of the admiral, as above given, are, on very good argument, altogether denied. They (and what T. Phillips says in his His-

years of age,* and was in the merchant service at the time this Colonel Benbow's demise thus happened. One thing is certain, that the king's good-natured interview resulted in no benefit to young Benbow; but he found a better friend in his own industry and ability, which raised him to be owner and commander of the *Benbow* frigate, one of the most considerable vessels then em-

tory of Shrewsbury bears them out) state the admiral to have been the son of William Benbow, of Cotton Hill, tanner and burgess of Shrewsbury, and to have had no uncle, Colonel Thomas Benbow, and only an uncle, Captain John Benbow, who was actually (and no doubt pursuant to the sentence recorded in the State Trials) shot in the Bowling Green of Shrewsbury on the 15th of October, 1651, and was buried the following day in St. Chad's churchyard in that town; and a stone erected over him, which was renewed in 1740, and which gave his name and the date of his interment. St. Chad's register has further this entry: "1651, October 16; John Benbowe, captain, who was shott at the Castle. B." All this being so, what becomes of the story of the Colonel Benbow of the Tower? It may be true, but must refer to some other member of the family.

* Admiral Benbow was born at Cotton Hill, near Shrewsbury, in 1650. In a bedroom belonging to the house of his birth appear the following lines, written with a diamond on the window:—

"Then only breathe one prayer for me,
That far away, where'er I go,
The heart that would have bled for thee
May feel through life no other woe.

"I shall look back, when on the main,
Back to my native isle;
And almost think I hear again
That voice, and view that smile."

Underneath has been added the following:—

"You go, and round that head, like banners in the air,
Shall float full many a loving hope and many a tender prayer."

ployed in the Mediterranean trade. Captain Benbow had grown into high esteem with the merchants of the Royal Exchange as a brave, active, and skilful seaman, when the following singular incident led to his passing into the royal navy.

In the year 1686, Captain Benbow, in his own vessel, the *Benbow* frigate, was attacked in his passage to Cadiz by a Moorish corsair, from that notorious nest of pirates, Salee. Captain Benbow defended himself, though very unequal in the number of men, with the utmost bravery, till at last the Moors boarded him; but were quickly beat out of his ship again with the loss of thirteen men, whose heads Captain Benbow ordered to be cut off, and thrown into a tub of brine. When he arrived at Cadiz he went ashore, and directed a negro servant to follow him, with the Moors' heads in a sack. He had scarcely landed before the officers of the revenue inquired of his servant what he had in his sack. The captain answered, salt provisions for his own use. That may be, answered the officers; but we must insist on seeing them. Captain Benbow alleged that he was no stranger there; that he did not use to run goods, and pretended to take it very ill that he was suspected. The officers told him that the magistrates were sitting not far off, and that if they were satisfied with his word, his servant might carry the provisions where he pleased; but that otherwise it was not in their power to grant such dispensation.

The captain consented to the proposal, and away they marched to the custom-house, Captain Benbow in the front, his man in the centre, and the officers in the rear. The magistrates, when he came before

them, treated Captain Benbow with great civility; told him they were sorry to make a point of such a trifle, but that since he had refused to show the contents of his sack to their officers, the nature of their employments obliged them to demand a sight of them; and that, as they doubted not they were salt provisions, the showing them could be of no great consequence one way or other. "I told you," says the captain sternly, "they were salt provisions for my own use. Cæsar, throw them down upon the table; and, gentlemen, if you like them, they are at your service." The Spaniards were astounded at the sight of the Moors' heads, and no less astonished at the account of the captain's adventure, who, with so small a force, had been able to defeat such a number of barbarians. They sent an account of the whole matter to the court of Madrid, and Charles II., then king of Spain, was so much pleased with it, that he would needs see the English captain, who made a journey to court, where he was received with great testimonies of respect, and not only when departing received a handsome present, but his Catholic Majesty was also pleased to write a letter in his behalf to King James II., a naval monarch, well able to appreciate the captain's daring; and so it proved, for the English king, upon the captain's return, gave him a ship, which was his introduction to the Royal navy.* There he speedily won high dis-

* This story of the Moors' heads derives considerable countenance from the following circumstance related in Owen and Blakeway's "History of Shrewsbury." It appears that a Mr. Richard Ridley married Elizabeth Benbow, a sister of the admiral. Their daughter,

tinction, but as his career is matter of history, I pass over his several daring cruises, his effective convoys, his bombardment of St. Maloes, his fire-ships, and his bold attack on Calais, where he was wounded, and his other numerous acts of gallantry. He became an admiral in 1694, and in 1700 King William III., it is said, to mark his approbation, granted him an honourable augmentation to his arms, "by adding to the three bent bows which he and his family already bore as many arrows."* On the approach of the war of the Succession, King William wanted a commander for his West India

Sarah Ridley, married Richard Briscoe, and Helen Briscoe, great granddaughter of this marriage, married John Powell, of the Castle Foregate, Shrewsbury; and in his possession might be seen a curious kind of cup or punch-bowl edged with silver, on which was engraved "The First Adventure of Captain John Benbo, and Gift to Richard Ridley, 1687." On close inspection this cup was found to consist of cane very closely matted together, and coated on both sides with varnish. The vessel was evidently such a covering for the head as is in use among the Moors, so that it might have been worn by one of the thirteen pirates who boarded the *Benbow* frigate.

* My friend, Albert W. Woods, Esq., Lancaster Herald, informs me that no registry or entry of these augmented arms is to be found in the Heralds' College. The only Benbow arms there are those of the Benbows of Newport, viz., "Sa. two string-bows endorsed in pale or garnished gu., between two bundles of arrows in fesse, three in each bundle, gold, barbed and headed arg., and tied up proper. *Crest*—A harpy close, or, face proper, wreathed round the head with a chaplet of roses gu." Mr. Woods also kindly furnishes me with a pedigree of the Benbows of Newport from Vincent's "Collection for the County of Salop," which nowhere shows connection with the family of the admiral, but in it I find a "Thomas Benbow, ætatis 20, 1623." May not this have been (though no uncle of the admiral) the Colonel Thomas Benbow of the Civil War, who, as nothing proves that he was shot after the Battle of Worcester, may have lived to be the old cavalier whom Charles II. discovered in poverty in the Tower?

fleet, but hesitated summoning Benbow, as he had already worked him so hard. Some other officers sent for seemed not to like undertaking the heavy duty proposed, upon which the king is reported to have said, "I will not have these beaux, but must get a beau of another sort, honest Benbow." The admiral accordingly arrived, and when the king excused himself for exacting what he thought too much, Benbow said, "he knew no difference of climates, and, for his part, he thought no officer had a right to choose his station, that he himself should be, at all times, ready to go to any part of the world to which his majesty thought proper to send him."

Benbow sailed with the fleet to the West Indies; he there did all he could to carry out the object of his government to force the Spanish colonies not to recognise Philip V., Louis XIV.'s grandson, as king of Spain; and the moment he received official information of war being declared, May, 4, 1702, against France, he prepared, with his usual daring, to attack with a far inferior force the squadron under the command of the French admiral, Du Casse. This brought on the affair, which redounded so to his own honour and to the disgrace of the captains under him. Mr. C. J. Yonge, in his recent able "History of the British Navy," to which I shall have to refer more than once in this volume, gives the following clear and spirited account of the memorable engagement:—

"In the autum of 1701 Benbow had been sent to the Antilles, where it was known that the French admiral, Du Casse, was also cruising. Benbow was a resolute

and skilful officer, but a man of a somewhat rough and stern temper, which had excited a feeling of insubordination and hostility against him in the breasts of some of his officers. Though peace still subsisted when he quitted England, his instructions were warlike; and he had acted on them, making prizes of several Spanish ships, and in no respect keeping secret his intention to treat the French in the same manner, if opportunity should offer. In the spring of 1702 certain information reached him that the French were preparing greatly to increase their force in the neighbourhood; and at the beginning of August he learnt that Du Casse, with four ships of the line, and one large frigate, were off Carthagena, making arrangements with the Spaniards to cripple our trade in that quarter. His own force consisted of two ships of the line, one ship of fifty-four guns, and four large frigates.* With these he at once sailed in quest of the Frenchman; and, on the 19th of August, he found him proceeding under easy sail at no great distance from the South American shore. Benbow at once made the signal for battle, but, as the French squadron, though not positively fleeing from the combat, held on its course, without taking any measures to bring it on; little was done that evening,

* The following is the exact list of Benbow's naval force:—

The Breda, Admiral Benbow and Captain Fogg - -	70 guns.
The Defiance, Captain Richard Kirby - - -	64 „
The Greenwich, Captain Cooper Wade - - -	54 „
The Ruby, Captain George Walton - - - -	48 „
The Pendennis, Captain Thomas Hudson - - -	48 „
The Windsor, Captain John Constable - - -	48 „
The Falmouth, Captain Samuel Vincent - - -	48 „

beyond exchanging one or two broadsides. The next five days are amongst the most discreditable in our naval history. During the night of the 19th, Benbow, in his own ship, the *Breda*, of seventy guns, had kept as close to the enemy as the darkness would allow; and so correct had been his judgment of their course, that at daybreak, on the 20th, he found himself close to them; but of all his squadron, but one frigate, the *Ruby*, Captain George Walton (on such a day of cowardice, or treachery, or both, his name deserves honourable mention), was at hand to support him; the rest had already contrived to fall several miles astern. Still, as the enemy continued on their way, Benbow, with this single comrade, pursued them as vigorously as he could, firing whenever they seemed within gunshot, and signalling with peremptory orders to the rest of the ships to join him. The next day the French, seeing his almost isolated state, halted to fight. The *Ruby* behaved most gallantly, and engaged one of the ships of the line, but was soon disabled by her antagonist's heavier fire, and might have been taken, had it not been for the resolute manner in which the *Breda* first supported, and then protected her. While this conflict was proceeding, the *Defiance*, 64, Captain Kirby, was unable to avoid coming close to the enemy, but she refused to fire a single shot. The *Windsor*, 48, Captain Constable, behaved equally ill; and the next day the *Greenwich*, 54, Captain Wade, behaved even worse, keeping five leagues from the admiral, who, from the crippled state of the *Ruby*, was in greater need of support than ever. On the 23rd Benbow engaged the whole of the enemy's ships single handed; he even

took a small vessel, called the *Anne*, a British galley, which Du Casse had captured on his way out. At last, Captain Vincent, of the *Falmouth*, 48, began to feel something like shame at the part which he had been enacting, and came to his assistance. The next day Benbow, now supported by the *Falmouth*, was still continuing the fight with unabated resolution, when a chain-shot struck him on the leg. In spite of all the agony of this mortal wound (for such it proved to be) his spirit was as resolute as ever. He was borne below, but he soon ordered himself to be again carried on deck, where he still gave his orders with an unaltered countenance. 'I am sorry, sir,' said Fogg, his captain, 'to see you in this state.' 'I am sorry too,' said the brave old man; 'but I would rather have lost both my legs than have seen this disgrace brought on the British flag.' Presently he was addressed in a different spirit. Captain Kirby had the audacity to come on board the *Breda*, and tell him, 'that he had better desist; the French were very strong, and, from what had passed, he might see that he could make nothing of it.' In truth he could make nothing of it: he had, indeed, reduced the ship with which he had been most closely engaged to a wreck; but he had not escaped severe injury to his own masts and rigging. The whole French squadron were now in full flight, and he soon became convinced of the impossibility of keeping up any further pursuit of them with the slightest prospect of success. He returned for Jamaica, while Du Casse made his way to Carthagena, thankful for his escape, and well aware to what circumstances he owed it."

The French admiral was a man of spirit, and fully

acknowledged the heroism of Benbow and the rascality of the officers under him. He wrote a letter to Admiral Benbow, of which the following is a translation:—

"CARTHAGENA, *August*, 1702.

"Sir,—I had little hopes on Monday last but to have supped in your cabin, yet it pleased God to order it otherwise. As for those cowardly captains who deserted you, hang them up: for by —— they deserve it.

"DU CASSE."

The original letter has been preserved by Admiral Benbow's family.

Admiral Benbow, after being thus cheated, as it were, out of victory, returned to Jamaica, where he arrived with his squadron, very weak from a fever brought on by his wounds, and was soon after joined by Rear-Admiral Whetstone, with the ships under his command.

As soon as he conveniently could, Admiral Benbow issued a commission to Rear-Admiral Whetstone, and to several captains, to hold a court-martial for the trial of the several offenders. On the 6th of October, 1702, the court sat at Port Royal, when Captain Richard Kirby, of the *Defiance*, was brought upon his trial. He was accused of cowardice, breach of orders, and neglect of duty, which crimes were proved upon oath by Admiral Benbow himself, ten commission and eleven warrant officers; by whose evidence it appeared that the Admiral boarded Du Casse in person three times, and received a large wound

in his face, and another in his arm, before his leg was shot off: that Kirby, after two or three broadsides, kept always out of gun-shot, and by his behaviour created such a fear of his desertion, as greatly discouraged the English in the engagement: that he kept two or three miles astern all the second day, though commanded again and again to keep his station: that the third day he did not fire a gun, though he saw the admiral in the deepest distress, having two or three French men-of-war upon him at a time: and that he threatened to kill his boatswain for repeating the admiral's command to fire. He had very little to say for himself, and therefore was most deservedly sentenced to be shot.

The same day, Captain John Constable, of the *Windsor*, was tried; his own officers vindicated him from cowardice, but the rest of the charge being clearly proved, he was sentenced to be cashiered, and to be imprisoned during Her Majesty's (Queen Anne's) pleasure. The next day, Captain Cooper Wade was tried, and the charge being fully proved by sixteen commission and warrant officers on board his own ship, as also, that he was drunk during the whole time of the engagement, he, making little or no defence, had the same sentence with Kirby. As for Captain Hudson, he died a few days before his trial should have come on, and thereby avoided dying as Kirby and Wade died, for his case was exactly the same as theirs.

Upon the 12th, came on the trials of Captain Samuel Vincent, commander of the *Falmouth*, and Captain Christopher Fogg, who was captain of the admiral's own ship, the *Breda*, for signing, at the persuasion of Captain

Kirby, a paper containing an obligation on themselves not to fight the French. The fact was clear, and the captains themselves did not dispute it. All they offered was in extenuation of their offence, and amounted only to this, that they were apprehensive Kirby would have deserted to the enemy, and they took this step to prevent it. But this tale would have hardly passed on the court-martial, if Admiral Benbow himself had not given some weight to their excuses, by declaring, that however they might be criminal in subscribing that paper, yet they certainly behaved themselves very gallantly in the fight. For the sake of discipline, the court, however, thought fit to suspend them; and yet, to favour the captains, the judgment was given with a proviso that entirely took off its edge, viz., that it should not commence till the pleasure of his Royal Highness Prince George of Denmark, the then Lord High Admiral, should be known. The prince dealt too leniently with them, for he sent orders for their being employed again.

The two chief offenders, however, Kirby and Wade, underwent the penalty their atrocious conduct had so richly merited. They were, in the spring of 1703, sent from Jamaica, on board Her Majesty's ship, the *Bristol*, and they arrived at Plymouth on the 16th of April, where (as in all the western ports), there lay a death warrant for their immediate execution, in order to prevent any applications in their favour; and not being, as having disgraced their country, permitted to land on English ground, they were accordingly shot on board the ship that brought them home, showing at their death such courage and constancy of mind, as

made it evident that their behaviour in the engagement arose not from any natural cowardice, but from a corrupt and malignant hostility towards their gallant commander. Let us now return to Benbow himself. He lingered near a month after the trials; for the court sat on the 6th of October, and it was on the 4th of November, 1702, that his true and valiant spirit fled. He showed the soul of a perfect British seaman to the very last. He was all along extremely sensible of his danger, and never entertained any flattering hopes of recovery. Yet, while he calmly and religiously prepared for death, he, during his illness, never ceased to perform his duty as an English admiral, with the same firmness he had shown during the engagement, giving all the necessary orders for protecting the trade that could have been expected from him, if he had been in full health. In the letters he wrote home to his wife, he displayed anxiety for the interest of the nation, quite as great as, if not greater, than for his private fortune, or the concerns of his family. Queen Anne, who had succeeded King William on the 8th of March, 1702, deeply mourned the loss of the admiral, and ever expressed the greatest regard for his memory. The admiral's sister had, in his lifetime, presented his picture to the Corporation of Shrewsbury, who caused it to be hung up in their town-hall, where it still remains, in lasting testimony of the affectionate remembrance in which the men of his county held his worth and patriotism.

Admiral Benbow, by Martha his wife, left behind him a family of two sons and two daughters, but his sons

dying without issue, his two surviving daughters became co-heiresses. Of these, the elder, Martha, born in 1679, was the wife, first of Thomas Stringer, and secondly of Samuel Robinson, and died in 1719; and the younger, Catherine, born in 1687, was the wife of Paul Calton, Esq., of Deptford, and of Milton, near Abingdon, Berks, and Hampstead, Middlesex. John Benbow, the admiral's elder son, was a seaman of some note in his day, in consequence of his strange adventures when second mate on board the *Degrave*, East Indiaman, 52 guns. That vessel was shipwrecked off the coast of Madagascar, and Captain Young, who commanded the vessel, Mr. Buchan, and others with them, endeavoured to make terms with the negro inhabitants of the island, by forcibly carrying off their king and queen. In this daring attempt they nearly succeeded, and some of them, including Benbow, got out of the clutches of the pursuing savages; after this, Benbow, unable to quit the island, remained some years among the negroes, living after their manner, and on friendly terms with them. He eventually returned to England on board a Dutch vessel, and, dying in 1708, was interred in the vault of St. Nicholas Church, Deptford. His brother, William Benbow, a great collector of epitaphs, and at one time a clerk in the Navy Office, died in 1729, and was buried in the same place. Confiscation and outlawry for their loyalty in the time of the Commonwealth did much to scatter the worthy family to which Admiral Benbow belonged; and the connections of it now extant are not many. A grand-niece of the admiral, Mary, was married to Herbert Haselden, Esq., of

the White House, county of Hereford, the head and representative of an old Herefordshire family, and was great-grandmother of the present representative, Herbert Howorth Wood, Esq., of the White House, near the city of Hereford. Of the kindred of Admiral Benbow, was also the late John Benbow, Esq., of Lincoln's Inn, M.P. for Dudley, whose two sons are the present Colonel Clifton Benbow, of Bath, and John Henry Benbow, Esq., of Lincoln's Inn.

Some accounts will have it that the remains of Admiral Benbow were brought from Jamaica, and deposited in the cemetery of St. Nicholas Church, Deptford; but that was not so, and no doubt the mistake has arisen from his having rented from Evelyn, the author of "Sylva," his house, Sayes Court, Deptford; and from the fact of his two sons being interred at St. Nicholas, Deptford. The admiral was buried in Jamaica, and a monument was erected over him, which, according to one statement, a hurricane since swept away.* Few visible

* Like most of the admiral's domestic history, this destruction of his tomb is doubtful; unless, indeed, his body was afterwards removed within the church; for a recent correspondent of that useful and able periodical, "Notes and Queries," gives the following epitaph of Admiral Benbow, from an article in the "Gentleman's Magazine," on Monumental Inscriptions in the West Indies:—

"Here lyeth interred the body of JOHN BENBOW, Esq., Admiral of the White. A true pattern of English courage. Who lost his life in defence of his Queen and Country, November ye 4th, 1702, in the 52nd year of his age, by a wound in his leg received in an engagement with Monsr. Du Casse. Being much lamented."

[A slab on the pavement.]

The correspondent of "Notes and Queries" goes on to state that "the admiral lies interred on the right as you approach the altar, and within the railing, of the parish church of Kingston, Jamaica."

marks, indeed, remain of this brave admiral, beyond his portraits at Shrewsbury and in Greenwich Hospital, and on inn signs, and beyond a descendant here and there, still living, of his race. In my anxiety to clear up the doubts that hang around the parentage and immediate kindred of the admiral, I, while putting this article together, went down to St. Nicholas Church, Deptford, and after viewing, in that handsome and interesting edifice, the stone tablet with the almost effaced inscription (the arms are unfortunately quite effaced) over the vault where lie the admiral's two sons, I wandered, with a friend who accompanied me, to the neighbouring Sayes Court, once the property of Evelyn, and let by him to Admiral Benbow, and to a still greater individual, the Czar Peter, when a workman in Deptford dockyard. We reached the place through a hideous labyrinth of streets, reeking with poverty, wretchedness, and dirt. "Alas! if Evelyn saw his favourite mansion and garden now," was the thought that struck us both. Evelyn once wrote, "I let my house, Sayes Court, near Deptford, on the 1st June, 1696, for three years, to Vice Admiral Benbow, condition to keep up the garden;" and on the 18th of the following January he further wrote: "I have let my house to Captain Benbow, and have the mortification of seeing every day much of my former labours and expense there impairing for want of a more polite tenant." Evelyn must have got the admiral out before the end of his term, for in January, 1698, he had the Czar for a tenant, whom, while there, the king, William III., came to visit, after having furnished the house for him. The Czar proved even a more careless and less

cleanly occupier than the admiral. But to look at Sayes Court now! The free and easy way of living, common to the rough seaman, and the rude northern potentate, could not, in wildest mood, have contemplated such a condition. It has gradually sunk from bad to worse; it has been a workhouse, and has become too decayed and confined for even that. It is now attached to the dockyard as a kind of police station and place for paying off the men. The large hall, used for the latter purpose, was no doubt the scene of many a jovial night spent by the admiral, and his successor, the Czar. What remains of Evelyn's garden is now a wilderness of weed and rank grass, hemmed in by a dingy wall that shuts out some of the filthiest dwellings imaginable. The avenue of hovels through which we passed from this ruined abode of former greatness, bore the name of Czar Street,—a last, lingering memento of the imperial visit. The illustrious Czar was so great a man, that he could nowhere set his foot without leaving an imprint behind. A monument to him is not needed; but it would have been pleasing to have found in Deptford some memorial carved in brass or stone of our gallant Benbow. Yet, after all, it matters not much, while the British public, ever mindful of greatness in the British navy, permits no oblivion to rest on his personal worth, his achievements, and his fame.

CAPTAIN KIDD, A PIRATE WITH A ROYAL COMMISSION.

Captain William Kidd, the hero of, as it may be called, this political and nautical romance, was born in the town of Greenock, in Scotland, and bred up for a seaman's life. Having quitted his native country, he resided at New York, where he became owner of a small vessel, with which he traded among the pirates, and thus obtained a thorough knowledge of their haunts, and could give a better account of them than any other person whatever. He was a man not particularly remarkable for courage, but very avaricious. He could never resist the tempting influence of the rapid profits made by pirates, and to this was owing his connection with them. While in their company, he used to converse and act as they did; yet at other times he would make singular professions of honesty, and intimate how easy a matter it would be to extirpate sea robbers, and prevent their future depredations. His frequent remarks on this subject engaged the notice of several considerable planters in the state of New York, who, forming a more favourable opinion of him than his true character would warrant, procured him the patronage with which he was afterwards honoured. For a

series of years complaints had been made of the piracies committed in the West Indies, which had been greatly encouraged by some of the inhabitants of North America, on account of the advantage they derived from purchasing effects thus fraudulently obtained. This coming to the knowledge of King William III., he, in the year 1695, bestowed the government of New England and New York on his devoted follower, Richard Coote, Earl of Bellamont, an Irish noble of distinguished character and abilities, who immediately began to consider of the most effectual method to redress the evils complained of, and consulted with Colonel Levingston, a gentleman who had great property in New York, on the most feasible steps to obviate the evils so long complained of. At this juncture Captain Kidd, having made money at New York, was sailing pompously about in a sloop of his own. The colonel fixed on him as the very man needed, and mentioned him to Lord Bellamont as a bold and daring personage, fit to be employed against the pirates, especially as he was perfectly acquainted with the places they resorted to. The plan met with the fullest approbation of his lordship, who reported the affair to King William, and recommended it to the notice of the Board of Admiralty. Yet such were then the hurry and confusion of public affairs in that troubled reign, that, though the design was approved of, no steps were taken towards carrying it into execution. Accordingly, Colonel Levingston made application to Lord Bellamont, that as the affair would not well admit of delay, it was worthy of being undertaken by some private persons of rank and dis-

tinction, and carried into execution at their own expense, notwithstanding State encouragement was denied it. His lordship acceded to the project, and, after some difficulties, the Lord Chancellor Somers, the Duke of Shrewsbury, the Earl of Romney, the Earl of Orford, and some other high persons, with Colonel Levingston and our gallant Captain Kidd himself, agreed to raise £6,000 for the expense of the voyage; and the colonel and the captain were to have a fifth of the profits of the whole undertaking. Matters being so far adjusted, a royal commission in the usual form was granted to Captain Kidd, to take and seize pirates, and bring them to justice; but though a second commission was added, there was, beyond the general direction not to molest the king's friends, and to bring ships taken to legal trial, no special clause or proviso to restrain his conduct, or regulate the mode of his proceeding. Kidd was known to Lord Bellamont, and another gentleman presented him to Lord Romney. With regard to the rest of the parties concerned, he was wholly unacquainted with them; and so ill was this affair conducted, that he had no private instructions how to act, but received his sailing orders from Lord Bellamont, the purport of which was, that he should act agreeably to the letter of his commission. Behold Kidd now a great man bearing the commission of the bellicose monarch of the Revolution, and with powers unbounded to crush all piracy and robbery on the sea.

A ship was purchased and equipped in the port of London; it received the name, which this affair made so known, of the *Adventure Galley*. In this vessel

Captain Kidd crossed the Atlantic, and then towards the close of the year 1695 sailed from New York and made prize of a French ship. Thence he went on to Madeira islands, to Bonavista, and St. Jago, and to Madagascar, acting fairly enough at first; but the sight of so many rich and defenceless merchant ships he met on his way was too strong for him. He could not resist the temptation, and lo! he, the authorised destroyer of pirates, turns pirate himself, and becomes a sea robber with a royal commission. He prowled at the entrance of the Red Sea, and, sailing to Calicut, he began a fearful career of crime by taking a ship of one hundred and fifty tons burthen, which he carried to Madagascar, and disposed of there. Having sold this prize he again put to sea, and at the expiration of five weeks fell upon and seized the *Quedagh Merchant*, a ship of four hundred tons burthen, the master of which was an Englishman, named Wright, who had two Dutch mates on board, and a French gunner; but the crew consisted of Moors, natives of Africa, and were about ninety in number. Kidd carried this ship to St. Mary's, near Madagascar, where he burnt the *Adventure Galley*, belonging to his owners, and divided the lading of the *Quedagh Merchant* with his crew, taking forty shares to himself. He and his crew then went on board the *Quedagh Merchant*, and sailed for the West Indies. It is uncertain whether the inhabitants of the West India islands knew that Kidd was a pirate; but he was refused refreshments at Anguilla and St. Thomas's, and therefore sailed to Mona, between Porto Rico and Hispaniola, where, through the

management of an Englishman, named Bolton, he obtained a supply of provisions from Curaçoa. He now bought a sloop of Bolton, in which he stowed great part of his ill-gotten effects, and left the *Quedagh Merchant*, with eighteen of the ship's company, in Bolton's care. While at St. Mary's, ninety men of Kidd's crew left him, and went on board the *Mocca Merchant*, an East India ship, which had just then commenced pirate. Kidd sailed in the sloop, and touched at several places, where he disposed of a great part of his cargo, and then steered for Boston, in New England. In the interim, Bolton sold the *Quedagh Merchant* to the Spaniards, and immediately sailed as a passenger in a ship for Boston, where he arrived a considerable time before Kidd, and gave to Lord Bellamont information of what had happened. Kidd, therefore, on his arrival, was seized by order of his lordship, when all he had to urge in his defence was, that he thought the *Quedagh Merchant* a lawful prize, as she was manned with Moors, though there was no kind of proof that this vessel had committed any act of piracy. Upon this, the Earl of Bellamont immediately despatched an account to England of the circumstances that had arisen, and requested that a ship might be sent for Kidd, who had committed several other notorious acts of piracy. News in those days travelled slowly, but one may conceive the excitement that arose in England when it became at length known that an adventure in which the Lord Chancellor and other high men of the State were shareholders, was being piratically carried on to the terror and ruin of the peaceful merchant ships afloat,

and the unoffending inhabitants of coasts not at war with us. A perfect storm burst out against the Government. "Was this to be the system of the king who had dethroned the Stuarts in the name of justice to persons and protection to property?" cried the Jacobites. "A strange revolution and for little purpose," thought the less ardent of the Whigs. Even the ultra followers of King William stood aghast.

The Government met the uproar boldly, honestly, and determinedly. Somers, who held the Great Seal so worthily, did not flinch for an instant. It was resolved to treat Kidd as a common culprit, and to subject him to a full and open trial, in which every particular would come out. Meanwhile an inquiry was called for in the House of Commons, and it was there moved, that "The letters patent, granted to Richard Earl of Bellamont and others, of all goods taken from pirates, were dishonourable to the king, against the law of nations, contrary to the laws and statutes of this realm, an invasion of property, and destructive to commerce." After a long and stormy debate, the motion was negatived by a majority of 13—the ayes being 185, the noes 198. In the Lords, Lord Somers and the Earl of Orford refuted victoriously the charge insinuated against them of giving countenance to pirates, and showed that the Earl of Bellamont was as innocent as they were. A motion was, however, carried in the Commons to address his majesty, that "Kidd might not be tried till the next session of Parliament, and that the Earl of Bellamont might be directed to send home all examinations and other papers relative to the

affair." The king complied with the request. As soon as Kidd arrived in England, he was sent for, and examined at the bar of the House of Commons, with a view to fix part of his guilt on the parties who had been concerned in sending him on the expedition, but nothing arose to criminate any of those distinguished persons. Kidd, who was actually in a state of semi-intoxication when he came to the bar of the House, made there a very contemptible appearance, on which a member, who had been one of the most earnest to have him examined, violently exclaimed, "This fellow, I thought he had been only a knave, but unfortunately he happens to be also a fool."

The trials of Kidd and his companions came on at the Old Bailey in May, 1701. The proceedings were very lengthy, and consisted of several distinct trials; the first was for murder against Kidd alone, the other trials were for various acts of piracy committed by him and different members of his crew. Kidd was found guilty in every case, and his men mostly so in the trials in which they were included.

The charge of murder against Kidd was evidently brought to secure his being capitally convicted, in case there might be acquittals on the charges of piracy; however, the act itself was a very brutal one. The victim of Kidd's violence was William Moor, a gunner of his crew, whom Kidd, after he had become a pirate, happened, when on board, in a moment of anger to call "a dog." "If I am a dog," retorted Moor, "you have made me so; yes, you have made me so; you have brought me to ruin and many more." Kidd, stung to

madness by the reproach, seized a wooden bucket hooped with iron, and struck Moor on the head with it. The blow was fatal: the unfortunate creature was carried to the gun-room and died the next day. On this charge, the jury found Kidd guilty of murder; and then came on the chief trial, which interested all England, viz., that of Kidd and nine of his crew, Nicholas Churchill, James Howe, Robert Lamley, William Jenkins, Gabriel Loff, Hugh Parrot, Richard Barlicorn, Alexander Owens, and Darby Mullins, for piracy and robbery on a ship called the *Quedagh Merchant*.

There was a great judicial array on the Bench: the Judges were Sir Edward Ward, Lord Chief Baron; Sir John Turton and Sir Henry Gould, Judges of the Court of King's Bench; Sir John Powell, a Judge of the Court of Common Pleas: and Dr. Oxenden, Judge of the Admiralty. The Solicitor-General, Sir John Hawles; Dr. Newton, Advocate for the Admiralty; Mr. Cowper, M.P. (afterwards the great Lord Chancellor Cowper); Mr. Coniers, and Mr. Knapp conducted the prosecution. Dr. Oldish, Mr. Nixon, and Mr. Moxon were momentarily allowed to intervene for Kidd and others; but this was only by indulgence, the barbarous custom being then in full force of not allowing counsel for prisoners charged with felony to act at all, unless on some admitted question of law that might arise. However, for those times, the trial was pretty fairly conducted, and bears a strong contrast to the judicial investigations before the Revolution, and indeed to some that had occurred immediately after.

As the speech of Dr. Newton, the counsel for the Admiralty, gave a full summary of the whole of the affair, I extract from the State Trials his address to the jury. He spoke as follows:—

"My lord and gentlemen,—The prisoner at the bar, Captain William Kidd, late commander of the *Adventure Galley*, and nine other mariners in the same vessel, stand indicted for feloniously and piratically assaulting and taking a ship, called the *Quedagh Merchant*, on the high sea, near Cutsheen, in the East Indies, about the 30th of January, in the ninth year of his majesty's reign: the ship was considerable for its force and bulk, being above four hundred tons, and more considerable for its lading, having on board to the value of many thousand pounds.

"This Captain Kidd, who thus acted the pirate himself, went from England in April, 1696, with a commission, dated the 26th of January preceding, to take and seize pirates in the Indian seas, which were very much and very dangerously infested by them, to the great hazard and loss and ruin of the merchant.

"The ship carried thirty guns, and there were on board about eighty men; but the Captain being come from New York, in July, 1696, pretending, as indeed it was designed he should, and he had undertaken to make that design good, that he was going to Madagascar (which was the known and common receptacle of the pirates in those seas) to take pirates, and free the seas from those disturbers of the commerce of mankind; so many came into him, being invited by articles publicly set up by him in that place, that his number quickly in-

creased to one hundred and fifty-five men; a force sufficent, if he had meant well, to have made him useful to the public; and to prove as mischievous, if his designs were otherwise: and what those were will quickly appear.

"After calling in at several places for provisions, and, among others, at Madagascar, in July, 1697, he sailed to Bob's Key, a small island at the entrance of the Red Sea, and a convenient station for the observing what vessels went from thence to the Indies; and now, instead of taking pirates, he becomes one himself, and the greatest and worst of all. He stayed three weeks, in expectation of the Mocca fleet, to make his benefit and his fortune out of it; for, whatever he had before pretended, that was his real design, and now so possessed his mind, that he could not refrain from declaring, and that often to his men, that now he should make his voyage, and ballast his ship with gold and silver. After long expectation the fleet, on the 14th of August, to the number of fourteen, came by; he fell in with the middle of them, fired several guns at them; but finding they had an English and a Dutch convoy, that design happily failed of the wished-for success.

"This disappointment, however, did not discourage him, but that he proceeded on for the coast of Malabar, where he knew the trade was considerable, and hoped his advantage would be proportionable in the disturbing it; and there accordingly, for several months, he committed many great piracies and robberies, taking the ships and goods of the Indians and others at sea, Moors and Christians, and torturing cruelly their persons, to

discover if anything had escaped his hands; burning their houses, and killing after a barbarous manner the natives on the shores, equally cruel, dreaded and hated both on the land and at sea.

"These criminal attempts and actions had rendered his name (to the disgrace and the prejudice of the English nation) too well known, and deservedly detested, in those remote parts of the world; and he was now looked upon as an arch-pirate, and the common enemy of mankind; and accordingly two Portuguese men-of-war went out in pursuit of him, and one met with him and fought him for several hours, but Kidd's fortune reserved him for another manner of trial.

"Amongst the great number of vessels he took on that coast was the ship he stands indicted for, the *Quedagh Merchant*, being then on a trading voyage from Bengal to Surat, the commander English (Captain Wright), the owners Armenian merchants, and others. He had taken Moors before, but Moors and Christians are all alike to pirates; they distinguish not nations nor religions. Those on board the vessels offered 30,000 rupees for her ransom, but the ship was too considerable to be parted with even for so great a sum, so Kidd sold goods out of her on the neighbouring coast to the value of £10,000 or £12,000, out of which he took whatever he could pretend to for ammunition and provisions, with forty shares for himself, and the remainder was disposed of amongst the crew, and particularly those who are here indicted with him, who accompanied him, who assisted him throughout all his piracies, and who now, too, share the spoils and the guilt with him.

"With this ship and another, and the remainder of the goods not sold on the coast, he sailed once more for Madagascar, where he arrived in the beginning of May, 1698, and there again what was left on board was divided according to the same proportions, and amongst the same persons as before, each mariner having about three bales to his share.

"It is not to be omitted that, at his return to Madagascar, there came on board to him some persons from the ship the *Resolution*, formerly the *Mocca* frigate (for the piratically seizing of which vessel there have been formerly trials and convictions in this place), of which Captain Culliford, a notorious pirate, now in custody, and against whom two bills have been found for piracy by the grand jury, was the commander. They at first seem to have been afraid of Kidd, but without any grounds, as his former actions had demonstrated, and the sequel showed. They, who were hardened pirates, and long inured to villanies, could scarce think that any man could so betray the trust and confidence the public had placed in him, and said they thought he came to take and hang them: but Captain Kidd assured them that he had no such design, and that rather his soul should be lost than do them any harm; bid them not be afraid, and swore he would be true to them; and here, indeed, he did not break his word. This was his way of being true to his trust, and making good the end of his commission, in acting with the greatest treachery and the greatest falseness that ever man did; and to make all that has been represented of him true, Captain Kidd and Captain Culliford went on board, treated and

presented each other; and, instead of taking Culliford, as it was his duty to have done, and his force was sufficient to have performed it, he gave him money and ammunition, two great guns and shot, and other necessaries to fit him out to sea, that he might be better able to take and seize other innocent persons.

"His own ship he now left, and went on board the *Quedagh Merchant*; several of his men then went from him, but not as prisoners. They were all along well-wishers and assistants to him, fought for him, divided the plunder with him, and are now come to be tried with him.

"This, gentlemen, is the crime he is indicted for—piracy; the growing trouble, disturbance, and mischief of the trading world and the peaceable part of mankind, the scandal and reproach of the European nations and the Christian name (I wish I could not say that the Kidds and the Averys had not made it more particularly so among the English), amongst Mahometans and Pagans in the extremest parts of the earth, which turns not only to the disadvantage of the immediate sufferers, but of all such as traffic in those countries, whether companies or single merchants, who are to suffer for the misfortunes of others, with whom, it may be, they have no dealings, and for the villanies of such, whom they and all mankind equally and justly detest and abhor.

"This is the person that stands indicted at that bar, than whom no one in this age has done more mischief, in this worst kind of mischief; or has occasioned greater confusion and disorder, attended with all the circumstances of cruelty and falsehood, and a complication of all manner of ill.

"If, therefore, these facts should be proved upon him, you will then, gentlemen, in finding him guilty, do justice to the injured world, the English nation (our common country), whose interest and welfare so much depend on the increase and security of trade; and, lastly, to yourselves, whom the law has made judges of the fact."

The evidence bore out this statement, and indeed the prisoners had no defence on the facts (beyond Kidd's urging falsely that the *Quedagh Merchant* sailed under a French pass), but three of them—Howe, Churchill, and Mullins—put forward a plea that they were entitled to the king's pardon, as they had surrendered themselves on a proclamation of the king's gracious pardon to such pirates, except Kidd, as gave themselves up. They had certainly so surrendered themselves, but the crown lawyers objected that they had not surrendered to the actual commissioners appointed to carry out the proclamation. Mr. Moxon for the prisoner Churchill thus put the point:—

"My lord, about the year 1698, there was a special commission given to four persons, and they were to proceed in their voyage to the Indies, and they carried a great number of proclamations, that all the pirates in such and such places should surrender themselves. Now they came to St. Helena with them, and Captain Warren was sent to St. Mary's, and he was to deliver some of these proclamations there, and the commissioner had then the ambassador to the Great Mogul on board, and this Captain Warren these proclamations. Warren comes and delivers the proclamations out, and, among the rest the prisoner at the bar having notice of this, he

goes to the governor, and confesses he had been a pirate, and desired them to take notice that he surrendered himself; and we have the governor of St. Mary's here to give an account of this matter."

Lord Chief Baron Ward.—"The proclamation says, They must surrender themselves to such and such persons by name: see if it be so. [Then the proclamation was read again.] Here are several qualifications mentioned; you must bring yourselves under them, if you would have the benefit of it."

Dr. Newton.—"Let them show that they surrendered themselves to the persons they were to surrender to."

Mr. Moxon.—"My lord, we will prove we gave notice within the time, by this paper."

Solicitor-General (Sir John Hawles).—"There is no time mentioned in it. [The affidavit was read.] Charles Hally, gent., maketh oath, that in the year 1698, there being notice of his majesty's gracious pardon to such pirates as should surrender themselves, James Howe, Nicholas Churchill, and Darby Mullins, in May, 1699, did surrender themselves to Jeremiah Bass, governor of St. Mary's, and he did admit them to bail."

Lord Chief Baron Ward.—"There were four commissioners named in the proclamation: there is no governor mentioned that is to receive them, only those four commissioners."

Mr. Moxon.—"But, my lord, consider the nature of this proclamation, and what was the design of it, which was to invite pirates to come in."

Mr. Coniers.—"We must keep you to the proclamation: here is not enough to put off the trial."

Lord Chief Baron Ward.—"If you had brought your-

selves within the case of the proclamation, we should be very glad: you that offer it must consider it is a special proclamation, with divers limitations; and if you would have the benefit of it, you must bring yourselves under the conditions of it. Now, there are four commisioners named, that you ought to surrender to; but you have not surrendered to any one of these, but to Colonel Bass, and there is no such name mentioned in this proclamation."

This was, after all, but a legal quibble on the part of the crown, and the king at least should have interfered (which he certainly did not for Mullins) to save from death prisoners who had thus surrendered.

On Kidd's urging that he acted under a royal commission, Mr. Justice Powell properly observed to the jury, "I understand, that he had a commission; therefore if any one has a commission, and he acts according to it, he is not a pirate; but if he takes a commission for a colour, that he may be a pirate, it will be bad indeed: and therefore, if the crown can prove that he was a pirate all along, this will be a great evidence against him."

Lord Chief Baron Ward summed up the case to the jury, and his address to them is so complete a *résumé* of the facts proved by the witnesses, and so lucid a statement of the law of piracy and felony touching the case, that I cannot do better than give his lordship's entire speech. It was as follows :—

Lord Chief Baron Ward.—"Gentlemen of the jury,—The prisoners at the bar, William Kidd, Nicholas Churchill, James Howe, Robert Lamley, William Jenkins, Gabriel Loff, Hugh Parrot, Richard Barlicorn, Abel Owens,

and Darby Mullins, in number ten, stand all here indicted for the crime of piracy, charged to be committed by them. And the instance of the crime is for feloniously and piratically seizing and taking the ship called the *Quedagh Merchant,* with the apparel and tackling thereof, to the value of £400, and divers goods mentioned in the indictment to the value of £4,500, the goods of several persons unknown, from the mariners of the said ship, and this at high sea, within the jurisdiction of the Court of Admiralty, about ten leagues from Cutsheen in the East Indies, the 30th of January, 1697, and in the eighth year of her Majesty's reign. Now, whether all, and any, and which of these prisoners are guilty of this crime of piracy laid in this indictment, or not guilty, it is your part to determine according to the evidence given on both sides. The crime charged on them is piracy, that is, seizing and taking this ship and goods in it, piratically and feloniously: the time and place is also laid in the indictment. To make good this accusation, the king's counsel have produced their evidence, and two witnesses have been examined in this case; each of them were in the ship which took the *Quedagh Merchant,* and very well acquainted with all the proceedings; that is, Robert Brandinham and Joseph Palmer. The first has given you an historical account of the whole proceedings of Captain Kidd, from his first going out of England in the *Adventure Galley,* to the time of this fact charged on them. They tell you, that about May, 1696, the king entrusted this Captain Kidd with two commissions, and they were both read to you. By one of them under the Admiralty seal, he was autho-

rised to set out as a privateer the *Adventure Galley*, and therewith to take and seize the ships and goods belonging to the French king, or his subjects, and such other as were liable to confiscation. And by the other commission, under the broad seal of England, authority was given for the taking of some pirates by name, and all other pirates in the several places therein mentioned; but in no sort to offend or molest any of the king's friends or allies, their ships or subjects, by colour thereof. And by both commissions command was given to bring all such ships and goods, as should be taken, to legal trials and condemnations. They tell us that this ship set out from Plymouth about May, 1696, and that in their passage they did take a French ship, and they did condemn that ship. Now, gentlemen, you must bear this in your minds, that to make it piracy, it must be the taking piratically and feloniously upon the high sea, within the jurisdiction of the Admiralty of England, the goods of a friend—that is, such as are in amity with the king. Now, you see what way they went to work, and what measures they took. Captain Kidd goes out, and goes to New York; and when he was there, he has a project in his head, of setting up articles between himself and the people that were willing to be concerned with him: for now, whether it seems more probable from what followed, that Captain Kidd designed to manage himself according to the measures given him, and the powers of his commissions, or any other way, you must consider: for it is told you, that between one hundred and fifty and one hundred and sixty men came in under these articles, whereof the other prisoners were

part, and concerned in them. And as to those articles, the import of them was, that whatever should be taken by these people in their expeditions should be divided into one hundred and sixty parts, whereof Captain Kidd was to have forty shares for his part, and the rest were to have according to the merits of each party, some whole shares, and some half shares.

"Now, after these articles, you perceive what progress they made, and what course they took; they went from one place to another, and used a great deal of severity wherever they came. A design they had to go into the Red Sea, and they had expectations of the Mocca fleet that lay at Mocca, and they sent their spies three times to get intelligence: the two first times they could make no discovery; but the third time they made an effectual discovery that the fleet was ready to sail; and in the meantime Captain Kidd lay there in expectation of this fleet; and as the first witness tells you, Captain Kidd said, he intended to make a voyage out of this fleet. Well, he had a discovery of this fleet, and they came accordingly; and they tell you, that he and his men did attack one of the ships; but these ships being guarded by two men-of-war, he could make nothing of them; however, he showed what his intention and design was. Could he have proved that what he did was in pursuance of his commissions, it had been something; but what had he to do to make any attack on these ships, the owners and freighters whereof were in amity with the king? This does not appear to be an action suitable to his commissions. After he had done this, he came to land, and there, and afterwards at sea,

pursued strange methods, as you have heard. The seeming justification he depends on is his commissions. Now it must be observed how he acted with relation to them, and what irregularities he went by. He came to a place in the Indies, and sent his cooper ashore, and that cooper was killed by the natives; and he uses barbarity, and ties an Indian to a tree, and shoots him to death. Now he went from place to place, and committed hostilities upon several ships, dealing very severely with the people.

"But this being something foreign to the indictment, and not the facts for which the prisoners at the bar are indicted, we are confined to the *Quedagh Merchant*; but what he did before shows his mind and intention not to act by his commissions, which warrant no such things. Gentlemen, you have an account, that he met with this ship, the *Quedagh Merchant*, at sea, and took her; that this ship belonged to people in amity with the king of England; that he seized this ship, and divers goods were taken out of her and sold, and the money divided pursuant to the heads contained in those articles set up in New York. The witnesses that speak to that come home to every one of the prisoners; they tell you that the dividend was made; that Captain Kidd had forty shares of the money, and the rest of the prisoners had their proportions according to the articles, some a whole share, and some a half share of that money. After they had seized the ship, you hear of a certain sort of project, that a Frenchman should come and pretend himself the master, and procure, or pretend to procure a French pass, under a colour that these people's ship and goods, who were Moors, should be

Frenchmen's ship and goods, or sailed under a French pass, and so justify what he did under the colour of his commission from the king. Now, no man knows the mind and intentions of another, but as it may be discovered by his actions. If he would have this to be understood to be his intention, or that it was in reality, that he took this as a French ship, or under a French pass, then he ought to have had the ship and goods inventoried, and condemned according to law, that he might have had what portion belonged to him, and that the king might have had what belonged to him, as his commissions directed; but here was nothing of that done, but the money and goods which were taken were shared, and you have an account likewise how some of the goods were sold, and the money disposed of, and how the remaining goods were disposed of; and one witness speaks positively of the distribution of the goods that remained unsold, that they were divided according to the same proportions as the articles mentioned, and every one of the prisoners had his share: there belonged forty shares to Captain Kidd, and shares and half-shares to the rest.

"Now, this is the great case that is before you, on which the indictment turns: the ship and goods, as you have heard, are said by the witness to be the goods of Armenians, and other people that were in amity with the king; and Captain Kidd would have them to be the goods of Frenchmen, or, at least, that the ship was sailed under French passes. Now, if that were so, as Captain Kidd says, it was a lawful prize, and liable to confiscation; but if they were the goods of persons in

amity with the king, and the ship was not navigated under French passes, it is very plain it was a piratical taking of them. Gentlemen, it is to be considered what evidence Captain Kidd hath given to prove that ship and goods to belong to the French king, or his subjects, or that the ship was sailed under a French pass, or, indeed, that there was a French pass shown or seen. He appeals indeed to the witnesses over and over again, Did you never see it? No, say they. Nor did not you, saith he, say you saw it? No, said the witness, I said that Captain Kidd said he had a French pass, but I never saw it. Now, after all, the taking the *Quedagh Merchant* is brought down to Mr. Kidd, and the prisoners with others, and the distribution of the money procured by the sale of the goods among Mr. Kidd and his crew, whereof every one of the prisoners were present at the same time, and had proportions.

"Now, gentlemen, this must be observed: If this was a capture on the high sea, and these were the goods of persons in amity with the king, and had no French pass, then it is plain piracy. And if you believe the witnesses, here is the taking of the goods and ships of persons in amity, and converting them to their own use; such a taking at land as this would be felony, and being at sea it will be piracy; for this is a taking the ship from the right owners, and turning it to their own use. So that you have evidence as to the seizing of the ship, and dividing the money rising from the goods sold, and sharing the remainder according to the articles.

"Now, what does Captain Kidd say to all this? He

has told you he acted pursuant to his commission; but that cannot be, unless he gives you satisfaction that the ship and goods belonged to the French king, or his subjects, or that the ship had a French pass; otherwise neither of them will excuse him from being a pirate; for if he takes the goods of friends he is a pirate: he had no authority for that; there is no colour from either of his commissions for him to take them. And as to the French passes, there is nothing of that appears by any proof, and for aught I can see, none saw them but himself, if there were ever any. It is proved that the people that were owners of the goods made him very large offers to redeem the ship (twenty thousand rupees, as I remember); but he would not accept their proposals, but said, 'That is a small sum; the cargo is worth a great deal more,' or to that effect: and further said, 'he must answer these people, that his men will not part with it:' and a Frenchman was to be set up for a mock business, as you have heard; and if the witness say true, they were said by the captain of the ship to be, and were reputed to be, the ship and goods of friends, and not of enemies; and if they were so, and had no French pass, then is he, and those that were concerned with him, guilty of piratically taking this ship, and of piratically seizing the goods in the ship; and neither of his commissions will justify such an action as this. If he had acted pursuant to his commission, he ought to have condemned the ship and goods, if they were a French interest, or sailed under a French pass: but by his not condemning them, he seems to show his aim, mind, and intention, that he

did not act in that case by virtue of his commission, but quite contrary to it; for he takes the ship, and shares the money and goods, and is taken in that very ship by my Lord Bellamont, and he had continued in that ship till that time;* so there is no colour or pretence appears that he intended to bring this ship to England to be condemned, or to have condemned it in any of the English plantations, having disposed of the whole cargo as aforesaid. Here I must leave it to you to consider whether, according to the evidence that appears, there is any ground for him to say he has acted by his commission in taking the *Quedagh Merchant* and goods in her, or whether he has not acted contrary thereto.

"Now, for himself, he has called some persons here to give an account of his reputation, and of his services done in the West Indies; and one of them says, about ten or twelve years he did good service there. Why, so he might and might have, and it is very like he had such reputation when the king trusted him with these commissions, else I believe he had never had them; so, that whatever he might have been so many years ago, that is not a matter to be insisted on now, but what he hath been since, and how he hath acted in this matter charged against him: so that, gentlemen, as to Mr. Kidd, I must leave to you, whether he is guilty of piracy or no. If you believe him guilty upon the evidence, you will find him so; if not, you will acquit him.

* There was no evidence to show that to be so. Kidd was, in fact, taken when landing from a sloop at Boston.

"Now, for the other prisoners, it is proved they were all concerned in taking and sharing the ship and goods in the indictment, yet their circumstances differ pretty much among themselves. There are three of them, that it has been made out to you, and owned by the king's witnesses, that they were servants, Robert Lamley, William Jenkins, Richard Barlicorn. All these are made out to be servants, and you have had the indentures of two of them produced, and the king's witnesses prove them so, and they were admitted to be servants. Now, gentlemen, there must go an intention of the mind, and a freedom of the will, to the committing of a felony or piracy. A pirate is not to be understood to be under constraint, but a free agent, for in this case the bare act will not make him guilty, unless the will make it so. Now a servant, it is true, if he go voluntarily, and have his proposition, he must be accounted a pirate, for then he acts upon his own account, and not by compulsion. And these persons, according to the evidence, received their part; but whether they accounted to their masters for their shares afterwards, yea or no, as they pretend, but make no proof of it, I must leave that to you; and therefore there is a consideration to be had of them: for if these men did go under the compulsion of their masters, to whom they were servants, and not voluntarily, and upon their own accounts, it may difference their case from others, who went and acted willingly in this matter, and upon their own accounts. So that as to those that were servants under the command of their masters, that were present with them, I must leave it to you, whether you will

distinguish between them and the others, that were not servants, but free agents. It is true, that a servant is not bound to obey his master but in lawful things, which they say they thought this was, and that they knew not to the contrary, but that their masters acted according to the King's commission; and therefore their case must be left to your consideration, whether you think them upon the whole matter guilty or no. If you believe them guilty, you will find them so; otherwise you will acquit them.

"For the other persons, some of them pretend they came in on his majesty's proclamation, and for that you must consider the evidence, and take it altogether, and consider whether you are satisfied by what they have said or proved, that they have brought themselves within the benefit of the king's favour by that proclamation. You have heard it read, and observed the qualifications and directions by it, and the terms upon which the pardon was promised, which are not made out to you, to be complied with by them; they may apply another way for the king's mercy; this court must proceed according to the rules of law and justice: but then all of them hold on this; we were, say they, under the captain, and acted under him as their commander: and, gentlemen, so far as they acted under his lawful commands, and by virtue and in pursuance of his commissions, it must be admitted they were justifiable, and ought to be justified: but how far forth that hath been, the actions of their captain and their own will best make it appear. It is not contested, but that these men knew, and were sensible of what was done and acted, and did

take part in it, and had the benefit of what was taken shared amongst them; and if the taking of this ship and goods was unlawful, then these men can claim no advantage by these commissions, because they had no authority by them to do what they did, and acted quite contrary to them. What had they to do to enter into such articles, and to act as they did? You must consider the evidence given here, according to the rules of the law; and if you are satisfied that they have knowingly and willfully been concerned or partaken with Captain Kidd in taking this ship, and dividing the goods, and that piratically and feloniously, then they will be guilty within this indictment. It is worthy of consideration what appears upon the evidence, that they met with one reputed to be a notorious pirate, called Culliford; he was esteemed an arch-pirate, and known to be so; yet this Captain Kidd that was commissioned to take pirates, instead of taking him, grows to such an intimacy with him, that he said he would have his soul lost before he would hurt him, or to that effect, and so they made presents one to another; and Captain Kidd left three of his men with him. Whilst men pursue their commissions they must be justified; but when they do things not authorised, or never acted by them, it is as if there had been no commission at all. I have distinguished the evidence as well as my memory serves me, and must leave it to you to determine upon the whole matter, who are guilty, and who are not. And such as you are satisfied to be guilty, you will find so, and such as you are not satisfied to be guilty you will acquit."

The jury, after half an hour's consultation, brought in all the prisoners guilty, except Lamley, Jenkins, and Barlicorn, whom, as being servants, they acquitted.

A second trial of the same ten persons for a further act of piracy had the same result. Further indictments were gone into, in which men of the name of Culliford (Captain Culliford, the pirate already mentioned), Hickman, and Eldridge were included. Culliford and Hickman pleaded guilty, and Eldridge was found guilty. The result of the whole proceedings was, that a law point being raised in favour of Culliford, judgment against him was respited, and Dr. Oxenden pronounced sentence of death upon Kidd, Churchill, Howe, Loff, Parrot, Owens, Mullins, Hickman, and Eldridge.

Kidd was executed with one of his companions, Darby Mullins, an Irishman, at Execution Dock, on the 23rd of May, 1701. After Kidd had been tied up to the gallows, the rope broke, and he fell to the ground; but being immediately tied up again, the Ordinary, who had before exhorted him, desired to speak with him once more; and on this second application, entreated him to make the most useful care of the few farther moments thus providentially allotted him for the final preparation of his soul to meet its important change. These exhortations seemed to have the wished-for effect; and he was left, professing his charity to all the world, and his hopes of salvation through the merits of his Redeemer. Some others of the men sentenced were also executed.

SOLDIERS AND CIVILIANS IN THE TIME OF WILLIAM III.

THE years 1693, 1694, and 1695, formed the gloomiest period of that troubled time which followed the Revolution of 1688. King William III., and Queen Mary, the latter of whom was to die before the last days of 1694 closed in, had, no doubt, firm possession of the throne, but, as regarded a great portion of their subjects, it was but an armed possession. Military force everywhere restrained the suppressed wrath of the Jacobites, and even was of use to check the puritanical dissatisfaction of those ultra Whigs who thought the Government had not gone far enough in the cause of revolution. Soldiers, garrisons, and forts full of troops so abounded throughout the length and breadth of the land, that the new constitutional monarchy had curiously all the aspect of a military despotism. Everywhere, too, King William's forces were then unpopular. The defeats of Cape St. Vincent, Landen, Marsaglia, and Brest had lessened the public faith—even the faith of those who supported the revolution—in the effective strength of the British soldiers and sailors. Discontent prevailed much throughout England, and plot upon plot was formed against the very life of the monarch. But if this was the state of

things in England, it was far worse in Scotland. There the king's troops were actually objects of extreme hate and execration with the great mass of the populace. The foul massacre of Glencoe, one of the worst of crimes for a Government to commit, had enraged the people of Scotland, and had brought undue weight against the reforming and would-be-salutary rule of King William. His troops, wherever garrisoned in the Scottish territory, were constantly insulted, and frequently violently assaulted. Conflicts of the most deadly kind occurred between them and the civilians, not only of the lower class, but of better station and official position. The frequent fatal results gave rise to many life-and-death criminal trials; and from these I take the two following, which made a sensation at the time, and are recorded by Arnot; they are peculiarly characteristic of the terrible discord that existed.

The first of these trials, which occurred in December, 1694, was that of John Gillespie, merchant in Glasgow; John Anderson of Dovehill; and Robert Stevenson, glazier in Glasgow, for the murder of Major James Menzies. The unfortunate major, the subject of the judicial investigation, was clearly a person of importance, for, by the prosecution, it appears that he was related to the eminent family of Fletcher of Salton, in Haddingtonshire. The prisoners, in effect, were proceeded against at the triple instance of William Fletcher (afterwards himself of Salton), brother to the Laird of Salton (the celebrated statesman and writer, Andrew Fletcher), nearest of kin to the deceased; of Lieutenant-

Colonel Hume, for the interest of his majesty's forces, and of his majesty's Advocate. It was charged in the indictment, that the prisoners having conceived mortal hatred at the deceased, did, on the 19th of October preceding, enter a garden upon the lands of Rainfield, where they understood the deceased was walking, and, upon seeing him, they, or one or other of them, did discharge guns and pistols at him, and also struck him a blow on the head, which fractured his skull, of one or other of which wounds he instantly expired—or, at least, they were guilty of art and part of this murder.

The defence stated for the prisoners was, that, in October last, in absence of the colonel and lieutenant-colonel, Lord Lindesay's regiment, then quartered at Glasgow, was commanded by the deceased, Major Menzies; that the major summarily apprehended several inhabitants, burgesses of Glasgow, and kept them in custody of the military on pretence of their being deserters, but who were really not such; that complaint having been made to the magistrates by the persons confined, they desired the major to bring those persons before them, that the complaint might be tried conform to the act of Privy Council, 16th December, 1692, but the major absolutely refused to comply with their desire. The magistrates issued a formal edict, requiring him to produce the complainers; but this also he treated with the most pointed contempt. Proceeding then with utmost gentleness, they demanded a conference, to which the major having consented, the provost, two of the baillies, and Mr. Robert Park, town clerk, met with Major Menzies, and three captains of his regiment, in

the town clerk's chamber. The conference began with the provost desiring of the major that the prisoners might be brought before them, and Mr. Park, the town clerk, in a very civil manner, joined in the request. Upon this, an altercation between the major and town clerk took place; the major gave him bad language, and struck him with a cane, he, the town clerk, having no weapon in his hand. On this they wrestled, and being separated by the company, and while the town clerk was held by Captain Jarvais, of Lord Lindęsay's regiment, the major drew his sword, and run the town clerk through the body, of which he died instantly. The major marched off sword in hand, repaired to the guard-house, ordered his men to charge their muskets, drew them up across the street, three file deep, and set them to guard the passes in order to favour his escape, mounted horse, and fled.

Upon this, Mr. Francis Montgomery, one of the lords of Privy Council, ordered such of the inhabitants as could be soonest got ready to pursue and apprehend the murderer. In obedience to this order, the three prisoners went in pursuit of the major, came to a garden at Rainfield, where they were informed he skulked. On coming up to him they charged him with the murder of the town clerk, and desired him to yield himself prisoner; but this he refused, and opposed them with a drawn sword, upon which he was killed. Various arguments in point of law were also offered for the prisoners, and much casuistry was likewise advanced for the prosecutors. These debates occupy fifty pages folio of the original criminal record.

The court sustained the indictment against the prisoners, as relevant to infer the pain of death. But they also sustained this defence as sufficient entirely to cast the indictment, viz., that they pursued the major by order of a privy councillor, or of the magistrates of Glasgow, proceeding upon the notoriety of the murder, unless the prosecutors should prove that the major offered to surrender before attacked by the prisoners. This again they sustained relevant to set aside the defence, in respect to such of the prisoners only as did actually kill or give command to kill the major, but by no means to infer art and part against any of the other prisoners, they being *versantes in licito.*

The proofs were as follow:—

Robert Pollock, younger, of Milnbourne, deposed: He was at Rainfield on the 19th of October last, where he saw the three prisoners, but none of them had arms except Dovehill, who had a carabine, but it was not he who killed the major, for the former was standing with the witness at the garden door when they heard the shot. Upon going up to the place, they saw the major lying on his back, dead, his face bleeding, and a drawn sword in his hand across his breast. Afterwards, when they came to Renfrew, he heard the prisoner (Gillespie) acknowledge he shot the major; but the witness did not see him have any fire-arms in his hand, nor did he see Gillespie either receive from or return any fire-arms to Dovehill. When Gillespie first acknowledged that he shot the major, he did not speak of the latter's having made any resistance; but after he was taken into custody, he declared that, if he had not done the thing

he did, the major would have run him through the body.

Peter Paterson, late baillie of Renfrew, went with the three prisoners into the garden of Rainfield the night Major Menzies was killed; it is uncertain whether all of the prisoners had arms, only that Dovehill had one or two pistols. He did not see Dovehill give a pistol to Gillespie; but, after the major was killed, saw Gillespie deliver a pistol to Dovehill, saying, "There is your pistol." Dovehill and young Milnbourne, a former witness, stood at the garden-door, while the deponent going forward with the other two prisoners (Gillespie and Stevenson) came up with the major, and one of them said to the deponent, "Baillie, here is a man." The man called out, "What is the matter, sir?" to which the witness answered, "There was a man slain in Glasgow; that the slayer was supposed to be skulking hereabout; and if you be the man, God Almighty forgive you." The person replied, "It is none of your business." One of the prisoners then called out, "Dovehill, here is the man." The major cried with an oath, "What have the rascals to do with me?" immediately drew his sword, and advanced upon them in great rage. The deponent and the prisoners retreated. He then heard a shot, but knows not whether it came from Gillespie or Stevenson. When he returned, he saw the major lying on his back, dead, and his sword in his hand lying across his breast.

Captain Jarvais, of Lord Lindesay's regiment, a witness adduced for the prisoners, was present at the conference between the Provost of Glasgow and Major Menzies. He heard the major call the town clerk "a

fool," and the clerk answered him, "he was but an ass." Upon this the major struck the clerk over the head with his cane, and the clerk returned a very severe blow with his fist. The company separated them, and the major drew his sword, made a thrust at the clerk, who immediately cried out he was wounded, and clapped his hand on the wound; and as he was going to another room, the deponent saw the clerk fall and lie on the floor. The witness went to the guard-house, and found the major was fled. The clerk had no arms.

Simon Tennent, one of the baillies of Glasgow, heard the major call the town clerk "a fool," and the town clerk called the major "an ass;" saw the major strike the former with his cane. The parties then grappled, and were separated, when the deponent saw the glance of a sword pointed towards the clerk, who immediately cried out, "A surgeon!" and died in about seven minutes. He was told by all the company it was the major who killed the clerk; and the latter, at the time of his death, had no arms, not even a staff, in his hand.

James Gemmill, jun., merchant in Glasgow, on the day Mr. Park was killed, saw the major come out of his, the town clerk's chamber, in haste, wanting his wig, and his sword drawn; saw him wipe his sword with the flap of his coat and return it into its scabbard. Before the major could arrive at the guard-house, whither he was going, the deponent heard that the clerk was wounded, and then was told he was dead.

Captain Lindesay, of Lord Lindesay's regiment, was present at the scuffle between Major Menzies and the town clerk; saw the major's arm in the attitude of

pushing with a sword; and immediately after the lounge the clerk cried he was wounded. The former left the room without his wig; the deponent took up the wig and followed, accompanying the major to the Gorballs, where he took horse and fled.

William Napier, provost of Glasgow, was in the town clerk's chamber the day he was killed. Upon the notoriety of the murder and flight, he gave orders to the three prisoners to pursue and apprehend the major. Mr. Francis Montgomery, one of the Lords of Privy Council, deposed that, on the day of the murder, he was applied to by the provost and magistrates of Glasgow, to concur with them in securing the peace of the city, which was in an uproar. The deponent went to the town clerk's chamber, whose dead body he found lying on the floor, and everybody crying that Major Menzies was the murderer. The deponent concurred with the magistrates, in ordering Dovehill, then in the room, to take some of the honest townsfolk along with him, and to pursue and apprehend the murderer; upon which the people dispersed peaceably.

The jury unanimously found the indictment not proved; found the prisoners' defence in terms of the interlocutor not proved; and found it not proved that the major offered to surrender himself; upon which the prisoners were dismissed from the bar.

This prosecution, ending very properly as it did, shows to what extent hot blood existed between soldier and civilian, when a gentleman of the major's rank and position could, in so trifling a quarrel, on the instant, kill an unarmed official, on duty in his chamber. The

major and his regiment must have, no doubt, been goaded to madness by the continual worry and insult of the populace, of which system of annoyance a notable specimen appears in this further trial, relating also to the same Lord Lindesay's regiment.

The trial, that of a writer in Edinburgh, one George Cumming, for the murder of Patrick Falconer, soldier in Lord Lindesay's regiment, occurred in Edinburgh in October, 1695.

The indictment set forth, that the prisoner, being in the streets of Portsburgh, a suburb of Edinburgh, on the 5th of the preceding month of September, between nine and ten at night, the deceased, Patrick Falconer, and two other soldiers of Lord Lindesay's regiment, walked peaceably by him, in the way to their quarters, when the prisoner gave the soldiers opprobrious language, and, without any just provocation, drew his sword, with which he maliciously run the deceased through the body, of which he died within twenty-four hours.

The proofs were as follow:—

James Porteous, apothecary in Edinburgh, deposed that, in the beginning of September last, he was one evening in the streets of Portsburgh, between nine and ten o'clock, in company with three other persons, of whom the prisoner was one. The prisoner went to a house to call for his cloak, and the deceased, with two other soldiers, came up with the deponent and his companions, who asked of them what o'clock it was. He cannot be positive what answer they made; but the prisoner, who was a little way behind them, called the

soldiers foul names. The soldiers asked what he said, and he repeated the words, calling at the same time to his companions to beat the soldiers. The soldiers then drew their bayonets, passed by the deponent and his companions, and went up to the prisoner, who advanced to them, and, when he was within sword's length of them, drew it, and within a quarter of an hour the deponent heard one cry "Murder!" That same evening he called at the prisoner's lodging, whom he found in deep concern, declaring that he had given the soldier a stab and he was afraid that it would prove mortal. At the same time he drew his sword, and spit upon it, endeavouring to wipe the blood off it. The prisoner came next morning to the deponent's chamber, told him he had been at Lauriston (the estate and castle of the famous John Law, near Edinburgh), and there was very bad news: the soldier was dead.

John Hall, writer in Edinburgh, was returning from the country one evening in the beginning of September, with the prisoner and other two comrades. When they came nigh the West Port, the prisoner went to a house for his cloak. In the meantime three soldiers came up with the defendant and his companions. He cannot be sure what answer the soldiers made when asked what o'clock it was; but the prisoner called out to them, "You rascals, what answer is that to give to gentlemen?" On this the soldiers drew their bayonets, passed the witness, and went up to the prisoner. In a little he heard the clashing, and saw the glancing of swords, upon which he went up to the combatants, and relieved the prisoner of one of the soldiers with whom he was engaged,

and very soon after he heard one cry "Murder!" He then went off, and on his way he called at the house of one Widow Lindsay, who told him that the prisoner had been there with his sword drawn, and had left word that he had gone home, whither the witness followed him. He found him sitting pensive and exceeding sorrowful, expressing his fears that the soldier had got a mortal wound. One deponent saw blood on his sword, went with him next day to Lauriston, and, when they heard that the soldier was dead, the prisoner clapped his hand on his thigh and was greatly agitated.

Two surgeons swore that they found the deceased run through the body with a small sword; that the wound was mortal, and he died of it the next day.

The jury found the pannel guilty of manslaughter. The Court sentenced him to be hanged, and his personal estate to be forfeited.

This was certainly a harsh sentence, for the prisoner was clearly not guilty of that killing which amounted to and merited the penalty of murder; and so Mr. Arnot thinks; for in his work he observes on this trial, that "to condemn an innocent man to death by the sentence and forms of law has been looked upon as one of the greatest of moral evils."

It is satisfactory to find that in a few years after this gloomy period a better feeling arose between civilians and the military in England and Scotland. The splendid victories of Marlborough brought back the old *prestige* that attached to British troops, and made the people again look on them, in the light they have ever since done, as the gallant and glorious supporters of the might and fame of the British empire.

THE TRIAL OF ADMIRAL BYNG.

THE HON. JOHN BYNG, an Admiral R.N., was the scion of a family already of high public reputation, when it was rendered illustrious in our naval annals by this admiral's father, whose services to his country should have at least saved his son from the extreme measure of severity which was so cruelly and so unfairly dealt out to him.

This family, the Byngs of Kent, whose brilliant achievements on sea and land obtained for them a viscountcy and an earldom, both still existing—those of Torrington and Strafford—is of ancient origin, and was of note as far back as the reign of Henry VII. One member of the House, Dr. Robert Byng, was vice-chancellor of the University of Cambridge in the time of Queen Elizabeth; and another, Thomas Byng, serjeant-at-law, was counsel to the same university. George Byng, Esq., of Wrotham, Kent, was M.P. for Rochester, and subsequently for Dover, in the reigns of Queen Elizabeth and James I. He was great-grandfather of Sir George Byng, the illustrious admiral, the father of John Byng, the unfortunate subject of this trial. Admiral Sir George Byng, the hero of the Battle of Cape Passara, and of many other hard-fought

and successful engagements, well deserves a niche in our naval temple of fame. He was a man of high spirit and honour, and of great sagacity and daring. No British officer of his time rendered more service to the cause of the Revolution or better sustained the House of Brunswick; and when his victory of Passara had annihilated the navy of Spain and forced that country to a peace, King George I. was loud in his gratitude to Byng, and, on creating him Viscount Torrington in 1721, prefaced the patent with the following preamble:—

"As the grandeur and stability of the British empire depend chiefly upon knowledge and experience in maritime affairs, we esteem those worthy of the highest honours who, acting under our influence, exert themselves in maintaining our dominion over the sea. It is for this reason that we have determined to advance to the degree of peerage our trusty and well-beloved councillor, Sir George Byng, Knt. and Bart., who, being descended from an ancient family in Kent, and educated from his youth in the sea service, hath through several posts arrived to the highest station and command in our navy by the strength of his own abilities, and a merit distinguished by our predecessors and ourselves, in the many important services which he has performed with remarkable fidelity, courage, and success. In the late vigorous wars which raged so many years in Europe—wars fruitful of naval combats and expeditions—there was scarce any action of consequence wherein he did not bear a principal part, nor were any dangers or difficulties so great but he sur-

mounted them by his exquisite conduct and a good fortune that never failed him. . . . Lately, when new contentions were springing up in Italy, and the discord of princes was on the point of embroiling Europe again in war, he did, with singular felicity and conduct, interpose with our squadron, crushing at one blow the laboured efforts of Spain to set up a power at sea, and advanced the reputation of our arms in the Mediterranean to such a pitch, that our flag gave law to the contending parties, and enabled us to resettle the tranquillity that had been disturbed. It is just, therefore, that we should distinguish with higher titles a subject who has so eminently served us and his country, both as monuments of his own merit and to influence others into a love and pursuit of virtue. Know ye, therefore," &c.

The next sovereign, George II., no less acknowledged Lord Torrington's merit, having made him first lord of the Admiralty, and having expressed to him on many occasions how indebted he and his royal predecessor were to him. After this, the way in which George II. abandoned this great man's son to the clamour of his enemies, seems as startling an act of ingratitude as the desertion of the earl of Strafford by Charles I.

Sir George Byng, Lord Torrington, died in 1733, leaving by his wife Margaret, daughter of James Master, Esq., of East Langdon, Kent (which lady had the good fortune to die the year before the trial of her unhappy son), a family of five sons and one daughter, of whom the two eldest sons were successively Viscounts Torrington. Robert, the third son, was ancestor of the

eminent line raised to the peerage as earls of Strafford; and John, the fourth son, was the Admiral Byng of this trial; and to his career I now come.

The Hon. John Byng, fourth son of Lord Torrington, was born in 1704, and when thirteen years of age, entered the royal navy under his father's auspices. From this time forward he seems to have been in constant active employment, and to have behaved creditably on all occasions. He was made an admiral in 1745, and he that year did good service to the Crown while commanding a squadron off the coast of Scotland, by effectually hindering any supplies of consequence being landed for the use of Prince Charles Edward and his followers. In 1755, Byng was sent in command of a fleet consisting of twenty-two ships of the line, two frigates, and two sloops, in a cruise to the westward, in hopes of intercepting the French squadron under the famous Duguay, and also the squadron of La Mothe, in its return from America. Byng, however, returned to Spithead, without having been able to effect anything, though it was allowed by all that the admiral had acted judiciously in the choice of his stations. No blame was then fixed on Byng, but this non-success was harshly remembered by the public when greater adversity fell upon him; and that happened soon after.

France and England had been acting hostilely to each other for some time prior to the 18th April, 1756, when the French invaded the then British possession of Minorca, and war was formally declared between the two nations. Thus began that great contest which was to end so gloriously for this country with the conquest of

Canada; but like most great contests in which England has been engaged, not forgetting the Peninsular and Crimean wars, the Government in the beginning was but little prepared for the majesty of the enterprise. The Newcastle, a feeble administration, ruled England, and Pitt, the future Lord Chatham, was in open opposition, awaiting with eagle eye the moment when he was to swoop and seize the reins of government. The following account of the weak conduct of the Ministry, as given by Smollett, graphically describes the state of affairs:—

"Under the cloak of an invading armament, which engrossed the attention of the British nation, the French were actually employed in preparations for an expedition, which succeeded according to their wish. In the beginning of the year, advice was received that a French squadron would soon be in a condition to sail for Toulon: this was afterwards confirmed by repeated intelligence, not only from foreign gazettes, but also from English ministers and consuls residing in Spain and Italy. They affirmed that the Toulon squadron consisted of fifteen or twenty ships-of-the-line, with a great number of transports; that they were supplied with provisions for two months only, consequently could not be intended for America; and that strong bodies of troops were on their march from different parts of the French dominions to Dauphiné and Provence, in order to be embarked. Notwithstanding these particulars of information, which plainly pointed out Minorca as the object of their expedition, notwithstanding the extensive and important commerce carried on by the subjects of Great

Britain in the Mediterranean, no care was taken to send thither a squadron of ships capable to protect the trade, and frustrate the designs of the enemy. That great province was left to a few inconsiderable ships and frigates, which could serve no other purpose than that of carrying intelligence from port to port, and enriching their commanders by making prize of merchant vessels. Nay, the Ministry seemed to pay little or no regard to the remonstrances of General Blakeney, Deputy-Governor of Minorca, who, by repeated advices, represented the weakness of the garrison he commanded in St. Philip's Castle, the chief fortress on the island. Far from strengthening the garrison with a proper reinforcement, they did not even send thither the officers belonging to it, who were in England upon leave of absence, nor give directions for any vessel to transport them, until the French armament was ready to make a descent upon that island.

"At length, the destination of the enemy's fleet being universally known, the Ministry seemed to rouse from their lethargy, and, like persons suddenly waking, acted with hurry and precipitation. Instead of detaching a squadron that in all respects should be superior to the French fleet in the Mediterranean, and bestowing the command of it upon an officer of approved courage and activity, they allotted no more than ten ships-of-the-line for this service, vesting the command of them in Admiral Byng, who had never met with any occasion to signalise his courage, and whose character was not very popular in the Navy; but Mr. West, the second in command, was a gentleman universally respected for his probity,

ability, and resolution. The ten ships destined for this expedition were but in indifferent order, poorly manned, and unprovided with either hospital or fire-ship. They sailed from Spithead on the 17th day of April, 1756, having on board, as part of their complement, a regiment of soldiers to be landed at Gibraltar, with Major-General Stuart, Lord Effingham, and Colonel Cornwallis, whose regiments were in garrison at Minorca, about forty inferior officers, and near one hundred recruits, as a reinforcement to St. Philip's fortress."

Byng, after arriving at Gibraltar, wrote to the Lords of the Admiralty, loudly and justly complaining of the state of the magazine, supplies, and other preparations there. He besides signified his opinion that even if it should be found practicable, it would be very impolitic to throw any men into St. Philip's Castle at Minorca, as it would only add to the number that must fall into the hands of the enemy. These unpleasant reflections are supposed to have irritated the Lords of the Admiralty, and to have led them to shift the blame from themselves upon the officer who had thus dared to complain of their conduct.

The result of an expedition so wretchedly arranged might almost be anticipated. The failure was sad indeed. Byng sailed from Gibraltar, and discovered the French fleet off Minorca, then sorely pressed by the invading French forces, under the Duke of Richelieu. The admiral did not attempt to land any troops there. He, on the 20th May, 1756, made a signal to bear away two points from the wind and attack the enemy. The second in command, Rear-Admiral West, found it im-

possible to obey this command, but bearing away with his division seven points to the wind, he fell on the French ships opposed to him with such impetuosity, that had he been, it was urged, promptly sustained by the rear under Byng, a complete victory, in all probability, would have been the consequence. This, however, was not done. Byng, from his anxiety to preserve his line entire, kept so far back, that he took little part in the engagement. The French admiral, M. le Comte de la Galissonnière, captured no English ships, but seemed well content to avoid a closer fight, and went off at his leisure. On the following day the two fleets were no longer in sight of each other, and Byng having called a council of war, it was resolved, that as the enemy was much superior in the weight of his metal and the number of his men, it was not practicable to relieve the fortress of St. Philip's, and it was decided to return to Gibraltar.

Meanwhile the inhabitants of Minorca had experienced great joy when Byng and his fleet appeared in sight; the double defeat of Galissonnière and his fleet at sea, and Richelieu and his troops on land, was fondly anticipated, when lo! the French fleet was seen to return to its old station off Port Mahon, and the news came that Byng had been foiled by the French admiral. In consequence of this failure on the part of Admiral Byng, General Sir William Blakeney, K.B., the British commander at Minorca, after a protracted and heroic resistance, which inflicted on the besiegers a loss of 5,000 men, capitulated to the Duke of Richelieu on honourable terms.

The news of this triumph for France was received at the

Court of Versailles with transports of joy, and was celebrated throughout the French dominions with vast and continued public rejoicings. One can easily conceive how, on the other hand, England was shocked and humiliated by the intelligence of events so disparaging to her pride and power. The whole nation was seized with grief and anger, and the people were furious against the Ministry in the first instance; but the Cabinet averted from themselves the general wrath by meanly and cruelly sacrificing Admiral Byng to the popular clamour.

Admiral Sir Edward Hawke and Admiral Saunders were dispatched to Gibraltar to supersede Admirals Byng and West, and to place them under arrest, and send them home to England. Byng, on his arrival at Portsmouth, was immediately placed in strict confinement, and every indignity was shown him. It is believed that Byng's despatches were received on the 16th of June, the day on which the two admirals sailed from Portsmouth to supersede him; but they were not published till the 26th June, and then not as written by Byng, but with omissions and interpolations. On Byng's arrival at Portsmouth, his youngest brother, the Hon. Colonel Edward Byng, hastened down to meet him, but was so shocked with the outcries he everywhere met with from the mob, that, being of a very delicate constitution, he fell ill in the presence of his incarcerated relative, and died the following day in convulsions. From Portsmouth Admiral Byng was brought to Greenwich, and there subjected to very harsh imprisonment in a garret of the Hospital. The Ministry seemed de-

termined to degrade the man before they slew him. In the month of December, 1756, their victim was removed back to Portsmouth to await his trial. That occurred on the 28th of December, 1756. The court-martial appointed for the investigation assembled on that day, and was held every day afterwards, Sundays excepted, till the 27th of January, 1757, inclusive, and was composed of the following members:—

President:

Vice-Admiral Thomas Smith, known in the Navy by the name of "Tom of Ten Thousand."

Rear-Admirals:

Francis Holbourne, afterwards an admiral, a lord of the Admiralty, and Governor of Greenwich Hospital.
Thomas Broderick, afterwards an admiral.
Harry Norris, afterwards an admiral.

Captains:

Charles Holmes, afterwards an admiral.
William Boys.
John Simcoe.
John Bentley, afterwards an admiral and a knight.
Peter Denis, afterwards an admiral.
Francis Geary, afterwards an admiral and a baronet.
John Moore, afterwards an admiral, K.B., and a baronet.
James Douglas, afterwards an admiral and a knight.
Hon. Augustus Keppel, afterwards a very eminent admiral, created Viscount Keppel.

The charges against Admiral Byng were seventeen

in number, and the court agreed upon thirty-seven resolutions, of which the five last imputed blame to Byng, the principal being that, during the engagement, he did not do his utmost to take, seize, and destroy the ships of the French king, and assist such of his ships as were engaged.

The statute law under which Byng was charged was the 12th article of the 22 George II., cap. 33, which enacted that

"Every person in the fleet, who, through cowardice, negligence, or disaffection, shall in time of action withdraw, keep back, or not come into the fight or engagement, or shall not do his utmost to take or destroy every ship which it shall be his duty to engage and to assist and relieve all and every of His Majesty's ships or those of his allies, which it shall be his duty to assist or relieve, every such person so offending, and being convicted thereof by the sentence of a court-martial, shall suffer death."*

The actual points only upon which his conviction depended were these:—1st, Whether he made any unnecessary delays with the fleet under his command, from the time of sailing from St. Helen's, April 6, to the time of his arrival at Minorca, May 19, 1756; 2ndly, Whether he did all that was in his power to do, agreeable to his instructions, to relieve St. Philip's fort upon his arrival there; and, 3rdly, Whether he did his utmost to distress the enemy on the day of battle. As a prepara-

* The 19 George III., c. 17, sec. 3, amended very properly the above article by adding to the end of it "or such other punishment as the offence may deserve."

tive to the evidence relating to these particulars, it is necessary to give this important portion of his instructions:—

"If, upon your arrival at Gibraltar, you shall not gain intelligence of a French squadron having passed the Straits, you are to go on without a moment's loss of time to Minorca; or if, in consequence of such intelligence, you shall detach Rear-Admiral West, as before directed, you are to use equal expedition in repairing thither with the ships which shall remain with you; and if you find any attack made upon that island by the French, you are to use all possible means in your power for its relief. If you find no such attack made, you are to proceed off Toulon, and station your squadron in the best manner you shall be able, for preventing any French ships getting out of that port, or for intercepting and seizing any that may get out; and you are to exert the utmost vigilance therein, and in protecting Minorca and Gibraltar from any hostile attempt."

The whole of the instructions, together with a letter from the Admiralty, relative to the taking on board Lord Robert Bertie's regiment of Royal Fusiliers, some letters from Admiral Byng to the Admiralty, dated at Gibraltar, respecting the state of the place and the intelligence he had there received, and also the minutes of a council of war held there on what was proper to be done in consequence of the orders delivered by him to the governor, with the opinion of the chief engineers at Gibraltar in regard to the throwing of succours into St. Philip's Castle, were all read in court before the examination of witnesses began. It then became a question,

from what time the enquiry into the conduct of the prisoner should commence, and it was agreed by a majority of eleven to two, that it should commence from the time the squadron sailed from St. Helen's. A short paper of the prisoner's was then read to the following effect:—"That he had earnestly wished the arrival of the time for inquiring into his conduct, and doubted not of evincing the falsehood of all the artful and malicious aspersions that had been cast upon him by his enemies; that he had a very sensible pleasure in considering the abilities and integrity of his judges; and that, relying with an entire confidence on their candour and impartial justice, he would not delay the proceedings of the court a moment."

The evidence was voluminous. The following is the most important part, as it bore against and for the Admiral:—

Rear-Admiral West was sworn and examined:

Court: What distance do you imagine the *Ramillies* (Admiral Byng's ship) might be from the *Buckingham* (Admiral West's ship) at the time of the engagement with the French fleet?—*Admiral West:* I believe about three miles.

Court: Do you think the admiral and the rear could have come up to the assistance of the van, and come to as close an engagement with the enemy?—*Admiral West:* I knew of no impediment to the contrary; but I cannot presume to say there was no impediment; nor I would not be understood to mean there was none.

Court: How was the wind and weather?—*Admiral West:* The wind was very calm, and the weather exceeding fine.

Court: Could you keep your lower ports open?—*Admiral West:* Yes, I could; and I knew of but one ship that could not, and that was the *Deptford,* who lowered her ports occasionally.

Court: Did you see any fire from Admiral Byng's ship during the engagement?—*Admiral West:* When I was looking towards the *Intrepid,* which was in distress astern, off her I saw some smoke, which might very probably be from the admiral's ship, or some of his division; but I was not able to discover at what ship it was directed.

Admiral Byng: Was it not in the power of the enemy to decline coming to a close engagement, as the two fleets were situated?—*Admiral West:* Yes, it was; but, as they lay to our fleet, I apprehended they intended to fight.

Admiral Byng: Are you of opinion that the forces on board the fleet could have relieved Minorca?—*Admiral West:* I believe they could not.

Admiral Byng: Were not some of the ships deficient in their complement of men?—*Admiral West:* Yes.

Admiral Byng: Were not some of the ships out of repair?—*Admiral West:* Yes.

Admiral Byng: Was not the fleet deficient, in point of force, with the enemy?—*Admiral West:* Yes.

General Lord Blakeney examined. He was eighty-seven years of age, and had been created an Irish peer for his defence of St. Philip's Castle.

Admiral Byng to the Witness: Do you think the forces I had with me could have been landed at Minorca?—*Lord Blakeney:* Yes; I think they might very easily be landed.

Admiral Byng: Was not some fascines thrown in the way?—*Lord Blakeney:* Yes; but they were such as I think might easily have been destroyed.

Court: If the admiral had attempted to land the men, would it not have been attended with danger?—*Lord Blakeney:* Danger! most certainly. It could not be so easy as stepping into this ship. I have been upwards of fifty years in the service, and I never knew of any expedition of consequence carried into execution but what was attended with some danger; but of all the expeditions I ever knew this was certainly the worst.

Admiral Byng: Had not the French a castle at the point, which might have prevented the landing of the troops?—*Lord Blakeney:* Not on the 20th of May; and the enemy were then in such distress for ammunition that they fired stones at the garrison.

Admiral Byng: Do you think that the officers and few men I had on board the fleet could have been of any great service to the garrison?—*Lord Blakeney:* Yes, certainly, of great service; for I was obliged, at the time, to set a great number of my men to plaster the breaches.

Captain Everett examined:

Court: What time did you see or discern the island of Minorca?—*Captain Everett:* We got sight of Minorca about six o'clock on the morning of the 19th of May.

Court: What was your nearest distance from St. Philip's Castle?—*Captain Everett:* About eleven or twelve o'clock in the forenoon of the 19th of May, we were about two leagues distant from St. Philip's Castle, and I believe that was the nearest distance I was to it.

Court: What time was the French fleet first discovered?—*Captain Everett:* About two or three in the afternoon of the same day (the 19th of May), the French fleet were seen distinctly standing to the westward, but I cannot pretend to say at what distance.

Court: How did the British fleet stand at that time?—*Captain Everett:* To the S.E., the wind at S.S.W.; moderate fine weather.

Court: What time did you see the French fleet preparing for engagement?—*Captain Everett:* On the 20th of May, between eight and nine o'clock in the morning.

Court: At what distance was the *Ramillies* from the *Buckingham* at the time of the engagement?—*Captain Everett:* I believe about three or four miles.

Court: Could the Admiral and the rear come up to the assistance of the van, and come to as close an engagement with the enemy?—*Captain Everett:* I am of opinion that the Admiral's division might have carried all their sail, and thereby assisted the van, and prevented them from receiving so much fire from the rear of the enemy.

Saturday, the 1st of January, the Court being sitting, Lord Blakeney appeared, in consequence of Admiral Byng's request, about nine o'clock in the morning, when the Admiral proposed the following question:—

Admiral Byng to Lord Blakeney: If I had landed the troops, do you think it could have saved St. Philip's from falling into the hands of the enemy?

Lord Blakeney: It is impossible for me to pretend to answer that question with any certainty; but really I am of opinion that, if they had been landed, it would

have enabled me to hold out the siege till Sir Edward Hawke had come to my relief.

Then the four first-lieutenants of the *Buckingham*, Admiral West's own ship, were examined, and they all agreed that they did not know of any impediment to prevent Admiral Byng and his division from coming to the assistance of the van, which was closely engaged and raked by the enemy's rear as they came up, and that they did not see the admiral go to a close engagement with the enemy, agreeable to his own signals.

Captain Everett was cross-examined:

Court: If Admiral Byng had come to a close engagement, do you think a complete victory might have been obtained?—*Captain Everett:* Why, really I think there was all the reason in the world to expect it, it being very well known that Admiral West beat off two of the enemy's ships, though he had but five ships to their six, and their metal much heavier.

Court: How was the wind?—*Captain Everett:* An exceeding fair gale.

Court: Had you too much or too little?—*Captain Everett:* Neither. Just enough, and no more.

Captain Young examined:—

Court: Could the admiral and his division, as the wind was then, if they had set all their sails from the time the signal for engaging was made, and bore away properly, could they have come to a close engagement with the enemy?—*Captain Young:* Yes, they certainly could; the French were laying-to for us. I went down only under my topsails, and I don't know why they could not have added sail in proportion to the distance and going of their ships.

Captain Cornwall examined:

"I went," said he, "to my window abaft, to take a view of the fleet when in line of battle, and was extremely surprised to see the admiral and his division at so great a distance on the weather quarter; and seeing the *Intrepid* in great distress, and no signal given for removing her out of the line, I went to her assistance; and, after getting her out of the line, fell into her station, and engaged the *Foudoyrant*, the French admiral, being the ship which I imagined fell to my lot in the then line of battle."

He also said he knew of no impediment to prevent the admiral's engaging at a proper distance, any more than the rest of the fleet.

General Lord Robert Bertie (son of Robert, first Duke of Ancaster, and a scion of the great family of Bertie, now Earls of Lindsey and of Abingdon) was sworn and examined, and proved an important witness for the prisoner:—

Court: Where was you stationed?—*Lord R. Bertie:* Upon the quarterdeck with the admiral.

Court: If the officers and recruits that were intended for Minorca had been landed, do you think they would have saved Fort St. Philip's?—*Lord R. Bertie:* No; I think they were of greater service on board the fleet.

Court: Was you on board the quarterdeck with the admiral in the engagement?—*Lord R. Bertie:* Yes; but upon informing the admiral that I discovered one of our own ships through the smoke upon the lee bow of the *Ramillies*, and which ship I was apprehensive the *Ramillies* would fire into without seeing her, I

was detached by the admiral between decks to stop the firing.

Court: Did you discover any signs of fear or confusion in the admiral?—*Lord R. Bertie:* No, far from it; he expressed an impatience to engage the enemy.

Court: How near were you to the enemy at the time of the engagement?—*Lord R. Bertie:* We were so near the enemy as to be hulled by them, and many of the enemy's shots passed over us.

Court: Did you ever hear any murmurings, or complainings, by any of the officers or men on board, upon a supposition that the admiral had not done his duty?—*Lord R. Bertie:* No; I never heard anything like it.

Lord Robert Bertie's examination being finished, Colonel Smith, who was also upon the quarterdeck with the admiral, was examined next, who confirmed what Lord Robert Bertie had said in every particular; and he also added that a shot from the enemy passed between him and Lord Robert Bertie as they were abaft the mainmast, which took off the head of a timber upon the deck, and went through the hammocks in the main shrouds. Captain Gardiner, of the *Ramillies*, testified that Byng showed quite the reverse of fear, and there was naught to allege against his personal behaviour.

The admiral addressed the court in his defence, commencing thus:—

"Gentlemen,—The articles of the charge exhibited against me are of such a nature, that everything that can be supposed interesting to a man is concerned in the event of this cause. My character, my property, and even my life, are at stake; and I should, indeed,

have great reason to be alarmed, were not I conscious of my innocence, and fully persuaded of the justice and equity of this court."

After urging the circumstances already brought out in his favour, he concluded as follows:—

"So far, then, I hope it will appear to the court, that neither knowledge of my profession, prudence in conducting the expedition, nor duty to my king and country, appear to be deficient in me.

"When, then, from the inferiority of the English, nothing could be reasonably expected but misfortune and disgrace; or if, by the greatest efforts of good fortune, victory should declare for our fleet, that no advantage could be drawn from it; when the risk of losing the whole fleet was the result of an unanimous council of war; and the nation, considering the real state of the English and French navies, so little able to sustain a loss of that kind; when Gibraltar would have been left defenceless, and fallen of course to the enemy, could the seeking the French admiral, by a commander who foresaw these probable consequences with not only an inferior, but a shattered fleet, and no other ships in the Mediterranean to reinforce him, have been justified in the judgment of men who have studied the nature of military achievements, or according to the rules and observations of ancient and modern writers on this head?

"The utmost advantage could have been but a prolongation of the siege, without the least probability of raising it; because the fleet, unable to keep the seas, must have retreated to Gibraltar, the port of Mahon being still commanded by the enemy's batteries."

After consultation, the court came to the unanimous opinion—

"That Admiral John Byng did not do his utmost to relieve St. Philip's Castle; and also that, during the engagement between His Majesty's fleet under his command, and the fleet of the French king, on the 20th of May last, he did not do his utmost to take, seize, and destroy the ships of the French king, which it was his duty to have engaged, and to assist such of His Majesty's ships as were engaged in fight with the French ships, which it was his duty to have assisted; and do therefore unanimously agree that he falls under part of the 12th article of an Act of Parliament, of the 22nd year of his present Majesty, for amending, explaining, and reducing into one Act of Parliament the laws relating to the government of His Majesty's ships, vessels, and forces by sea; and as that article prescribes death, without any alternative left to the discretion of the court under any variation of circumstance, the court do thereby unanimously adjudge the said Admiral John Byng to be shot to death, at such time and on board such ship as the Lords Commissioners of the Admiralty shall direct.

"But as it appears, by the evidence of Lord Robert Bertie, Lieutenant-Colonel Smith, Captain Gardiner, and other officers of the ship who were near the person of the admiral, that they did not perceive any backwardness in him during the action, or any marks of fear or confusion, either from his countenance or behaviour, but that he seemed to give his orders coolly and distinctly, and did not seem wanting in personal courage; and, from other circumstances, the court do not believe

that his misconduct arose either from cowardice or disaffection, and do therefore unanimously think it their duty earnestly to recommend him as a proper object of mercy."

The court-martial went further, for in transmitting a copy of their proceedings to the Board of Admiralty, they likewise sent their lordships a letter, which concluded in these terms:—

"We cannot help laying the distresses of our minds before your lordships on this occasion, in finding ourselves under the necessity of condemning a man to death from the great severity of the 12th Article of War, part of which he falls under, and which admits of no mitigation, even if the crime should be committed by an error in judgment; and therefore, for our own consciences' sake, as well as in justice to the prisoner, we pray your lordships in the most earnest manner to recommend him to His Majesty's clemency."

The king and his ministry met this representation and other applications in behalf of Admiral Byng by referring the legality of the judgment of the court-martial to the consideration of the twelve Judges at Westminster, who were unanimously of opinion that the sentence was legal. This was really doing nothing. It was not the strict literal correctness of the sentence that was doubted, but Byng's friends mainly looked to that mercy which was the attribute of the sovereign. The Lords of the Admiralty, on the Judges giving their decision, signed a warrant for Byng's execution: two lords, however, nobly, to their own detriment and loss of place, refused to concur in the proceeding. These were Admirals West and Forbes.

Captain, afterwards Admiral, Lord Keppel (who on

a future day was to be subjected to a similar trial) made a last effort to save Byng, and got a temporary respite, by stating in the House of Commons, of which he was a member, that he and other members of the court-martial desired to be released from their oath of secrecy, that they might reveal the grounds on which they recommended Byng to mercy. A bill was accordingly brought into the House of Commons for that purpose, and it passed with little opposition; but being carried to the Lords, it was there so vigorously opposed that it was thrown out on the second reading.

The following admirable letter was addressed by the Hon. Mrs. Osborn, Byng's sister,* to the Lords of the Admiralty:—

"My Lords,—The judges having reported to His Majesty in council, that the sentence passed on my unfortunate brother is a legal one, permit me to implore your lordships' intercession with His Majesty for his most gracious mercy, and to hope your lordships will not think an afflicted sister's application ill-founded, in a case so hardly circumstanced, and which the judges (though by the severity of the law they thought themselves obliged to pronounce the fatal sentence) have so earnestly recommended to your lordships' humanity; to your justice I will not presume to add, though in their letter to your lordships they say, 'that in justice to the prisoner, as well as for their own conscience' sake, they recommend him to His Majesty's mercy.'

* This lady, the only daughter to survive him, of George, first Viscount Torrington, was Sarah, wife of John Osborn, Esq., and mother of Sir Danvers Osborn, third Baronet of Chicksands Priory, Bedfordshire, the direct ancestor of the present Sir George Robert Osborn, Bart.

"The court-martial, my lords, seemed to have acquitted my unhappy brother of cowardice and disaffection, and, therefore, it is presumed he stands sentenced under the head of negligence. It is not fitting, perhaps, that a wretched woman, as I am, should offer any arguments in my brother's relief to your lordships, who are masters of the whole: but what criminal negligence, my lords, can there have been, in which neither cowardice nor disaffection have had a part? What criminal negligence can there have been, since his judges thought it incumbent on them, for their own conscience' sake, and in justice to the prisoner, to recommend him to His Majesty's mercy?

"I must submit to your lordships, whether it be the meaning of the law that every kind of negligence, wilful or not, should be punished with death. If so, it is not for me to make an observation on the law; if not, a negligence arising neither from cowardice, disaffection, nor wilfulness, ought not, according to the spirit and intention of the law, to be deemed capital.

"Why, my lords, should my poor brother suffer, when both the sentence by which he is condemned, and the letter to your lordships, by which he is so strongly recommended to His Majesty's mercy, fully prove that his judges did not deem him deserving the punishment they thought themselves obliged to sentence him to? I hope your lordships will not think he ought to suffer, either under a law unexplained or doubtful, or under a sentence erroneously passed, if the law has been misunderstood; and if my unfortunate brother has been condemned under the 12th Article, according to the

spirit and meaning of which he should not have been condemned, I submit to your lordships whether his life should be the forfeit.

"If there is a doubt on the principles and motives that induced the court-martial to entreat the intercession of your lordships with His Majesty for mercy, I submit to your lordships whether these motives should not be more fully explained before it be too late. It would be needless to mention the usual course of His Majesty's mercy to the condemned, upon the application of his judges, if my unhappy brother's case had circumstances particularly unfavourable to it; but, on the contrary, for the reasons I have ventured briefly to offer, and the many others that must occur to your lordships, his case appears to be uncommonly hard, and well deserving that mercy to which his judges have so earnestly recommended him. I hope I shall stand excused, if I beseech your lordships' immediate intercession with His Majesty in his behalf.—17*th February*, 1757."

This letter passed unheeded.

Byng prepared himself for death. He was ordered to be executed on board the *Monarque* in Portsmouth harbour, on the 14th March, 1757.

Two illustrious Frenchmen also interfered to rescue Byng. The one was Voltaire, ever humane whatever his faults might be; and the other was the Duke of Richelieu, a Marshal of France, the successful invader of Minorca.

The Marshal Duke of Richelieu wrote in French; but

M. de Voltaire wrote in English. Voltaire's letter, and the duke's translated, run as follows:—

"Clux Délices près de Genêve.

"Sir,—That I am almost unknown to you, I think 'tis my duty to send you the copy of the letter which I have just received from the Marishal Duke of Richelieu: honour, humanity, and equity, order me to convey it into your hands. This noble and unexpected testimony from one of the most candid as well as the most generous of my countrymen, makes me presume your judges will do you the same justice.

"I am, with respect, Sir, &c.,

"VOLTAIRE.

"To the Hon. J. Byng, Esq."

"Sir,—I am very sensibly concerned for Adm. Byng; I do assure you whatever I have seen or heard of him does him honour. After having done all that man could reasonably expect from him, he ought not to be censured for suffering a defeat. When two commanders contend for victory, tho' both are equally men of honour, yet one must necessarily be worsted, and there is against Mr. Byng but his being worsted, for his whole conduct was that of an able seaman, and is justly worthy of admiration. The strength of two fleets was at least equal; the English had 13 ships and we 12, much better equipped and much cleaner. Fortune that presides over all battles, and especially those that are fought at sea, was more favourable to us than to our adversaries, by sending our balls into their ships with greater execution. I

am persuaded, and it is the generally received opinion, that if the English had obstinately continued the engagement their whole fleet would have been destroyed.

"In short, there can be no higher act of injustice than what is now attempted against Admiral Byng, and all men of honour, and all gentlemen of the army, are particularly interested in the event.

"RICHELIEU."

"I received this original letter from Marshal D. de Richelieu, the 1st of January, 1757, in witness of which I have signed my name.

"VOLTAIRE."

Voltaire, in one of his satirical works, observes that Admiral Byng was put to death "pour encourager les autres."

On Sunday morning, the 13th of March, 1757, Captain Montague having received a warrant from Admiral Boscawen for Admiral Byng's execution to take place next day, gave it to the Marshal of the High Court of Admiralty to read to him; Byng calmly heard it, and remarked, with some warmth, that the place appointed by the warrant was upon the forecastle. "Is not this," said he, addressing himself to his friends, "putting me upon the footing of a common seaman condemned to be shot? Is not this an indignity to my birth, to my family, and to my rank in the service? I think I have not been treated like an officer in any instance since I was disgraced, excepting in that of being ordered to be shot." He appeared much disturbed at this circum-

stance, and looked upon it as a grievance. His friends, fearing it would not be altered, because the warrant was expressly worded so, represented to him that it appeared to them no impropriety; but they hoped he would think the place immaterial and beneath his notice, and not let any such consideration break in upon his tranquillity of mind. He then composed himself again, and replied, "It is very true, the place or manner is of no great importance to me; but I think living admirals should consult the dignity of the rank for their own sakes. I cannot plead a precedent; there is no precedent of an admiral or a general officer in the army being shot. They make a precedent of me, such as admirals hereafter may feel the effects of."

At his last dinner on that Sunday he was cheerful as usual, and in the evening he ordered a small bowl of punch to be made; and when all were seated round the table, he helped every one, and taking his own glass with a little punch in it—"My friends," said he, "here are your healths, and God bless you all. I am pleased to find I have some friends still, notwithstanding my misfortunes." When he had drank, and set his glass down, he added, "I am to die to-morrow; and as my country requires my blood, I am ready to resign it, though I do not as yet know what my crime is. I think my judges, in justice to posterity and to officers who come after me, should have explained my crime a little more, and pointed out the way to avoid falling into the same error I did. As the sentence and resolutions now stand, I am persuaded no admiral will be wiser hereafter by them, or know better how to conduct himself on the like occasion."

The following day he spent a considerable part of the morning in the state-room by himself, then came out and sat down with the marshal and breakfasted composedly as usual. His dress was a plain cloth suit of a light grey mixture, such as he had always worn after he received his order of suspension in Gibraltar Bay, having there taken off his uniform, which he immediately threw into the sea as soon as he had read the suspending order.

The Monday on which Byng suffered death was most stormy; and amid the clash of the elements came the clash of the discharge which shot down a brave British admiral, not for any moral crime, but for that which an act of Parliament had strangely made a capital offence —viz., an error of judgment.

Orders had been given for all the men-of-war at Spithead to send their boats, with the captains and all officers of each ship, accompanied with a party of marines under arms, to attend the execution. They, in pursuance of that order, rode from Spithead, and made the harbour a little after eleven o'clock, with the utmost difficulty and danger, it blowing a prodigious hard gale, the wind at W.N.W., and ebbing water. It was still more difficult to get up so high as the *Monarque* lay, on board which ship the admiral was to suffer. Notwithstanding it blew so strong and the sea ran very high, there was a prodigious number of other boats round the ships on the outside of the men-of-war's boats, which last kept off all others. Not a soul was allowed to be on board the *Monarque*, except those belonging to the ship. Admiral Byng, accompanied by a clergyman who attended him during his confinement, and two gentlemen, his relations, walked out of the great cabin to the quarter-

deck, where he was to be shot, on the larboard side, a few minutes before twelve o'clock. He was dressed in a light grey coat, white waistcoat, white stockings, and a large white wig, and had in each hand a white handkerchief. He threw his hat on the deck and kneeled on a cushion. One of his friends attended him to this cushion, and offered to tie the bandage over his eyes; but having a white handkerchief ready folded in his hand, he replied, with a smile on his countenance, "I am obliged to you, sir,—I thank God I can do it myself; I think I can—I am sure I can;" and he tied it behind his head himself. He then dropped the other handkerchief as a signal, on which a volley from six marines was fired, five of whose bullets went through him, and he was in an instant no more. The sixth bullet went over his head.

It could not be two minutes from his coming out of his cabin till he fell motionless on his left side. He died with great resolution and composure, not showing the least sign of timidity. The spectators were amazed at the intrepidity of his behaviour, and scarcely could refrain from tears—even the common seamen, one of whom having stood all the while full of attention, with his arms crossed, cried out, with a kind of enthusiasm, when he saw him fall, "There lies the bravest officer in the navy."

The *Ramillies*, the ship which was the admiral-ship of Byng in his fatal engagement in the Mediterranean, was riding at her moorings in the harbour, and about half an hour before he suffered she broke her mooring chain, and only held by her bridle, which was looked upon as a wonderful incident by people who did not consider the high wind at the time.

The admiral just before his execution read and delivered to William Brough, Esq., Marshal of the High Court of Admiralty, a paper couched in the following terms:—

"Sir,—These are my thoughts on this occasion. I give them to you, that you may authenticate them, and prevent anything spurious being published that might tend to defame me. I have given a copy to one of my relations.

"A few moments will now deliver me from the virulent persecution, and frustrate the farther malice of my enemies. Nor need I envy them a life subject to the sensation my injuries and the injustice done me must create. Persuaded I am, justice will be done to my reputation hereafter. The manner and cause of raising and keeping up the popular clamour and prejudice against me will be seen through. I shall be considered (as I now perceive myself) a victim destined to divert the indignation and resentment of an injured and deluded people from the proper objects. My enemies themselves must now think me innocent. Happy for me, at this my last moment, that I know my own innocence, and am conscious that no part of my country's misfortunes can be owing to me. I heartily wish the shedding my blood may contribute to the happiness and service of my country, but cannot resign my just claim to a faithful discharge of my duty according to the best of my judgment, and the utmost exertion of my ability for His Majesty's honour and my country's service. I am sorry that my endeavours were not attended with more success, and that the armament under my com-

mand proved too weak to succeed in an expedition of such moment.

"Truth has prevailed over calumny and falsehood, and justice has wiped off the ignominious stain of my supposed want of personal courage or disaffection. My heart acquits me of these crimes. But who can be presumptuously sure of his own judgment? If my crime is an error in judgment, or differing in opinion from my judges; and if yet the error in judgment should be on their side, God forgive them, as I do; and may the distress of their minds, and uneasiness of their consciences, which in justice to me they have represented, be relieved and subside, as my resentment has done.

"The Supreme Judge sees all hearts and motives; and to him I must submit the justice of my cause.

"J. Byng.

"On board His Majesty's ship *Monarque*, in Portsmouth harbour, March 14, 1757."

It is a singular and melancholy fact, that in the very month of June, 1756, when the order had gone to Gibraltar to arrest Bying and bring him home to his trial and death, one of the admiral's nephews, Robert Byng, was among the hundred and twenty-three victims who perished from suffocation in the black-hole of Calcutta.

To the honour of the Byng family, their patriotic character and public spirit were no wise lessened by the sad treatment of the unfortunate admiral. They have continued to bear themselves with high credit and honour down to the present day, and their very conduct, showing the worth and dignity of the race, is

another proof of the injustice done their relative. The admiral's two elder brothers were Pattee, second Viscount Torrington, who acted efficiently as Paymaster-General in Ireland; and George, third Viscount Torrington, who was a general officer of repute, and whose grandson George, sixth and late Viscount Torrington, was a vice-admiral of the blue. Admiral John Byng had another brother, the Hon. Robert Byng, who was Commissioner of the Navy and Governor of Barbadoes, and whose two grandsons were the honest old George Byng, Esq., for fifty-six years M.P. for Middlesex; and Sir John Byng, G.C.B., a field marshal in the army, who was one of the glories of the Peninsula and Waterloo. His heroic conduct in many a Peninsular battle, and particularly at Waterloo, obtained for him twice the thanks of Parliament, and eventually the Viscountcy of Enfield and the Barony and Earldom of Strafford. The present head of the house of Byng, George, seventh Viscount Torrington, has held and still holds high office under the Crown; his next brother, Major the Hon. Robert Barlow Palmer Byng, of the Bengal Native Infantry, an officer of great merit and ability, fell gloriously in India, in 1857, while leading his regiment against the mutineers. The present viscount's third brother, the Hon. James Byng, in another public capacity, as the able chairman of the South-Eastern Railway Company, has rendered to the community services of the greatest value. In fine, the unfair cruelty which Admiral Byng underwent, the little wrong he had done, and the very merits of his family, make his putting to death a very sorrowful and a but little creditable recollection in the annals of our navy.

THE TRIAL OF LORD GEORGE SACKVILLE.

In the reign of George II. it became quite a fashion for both king and people to run down to degradation, and even to death, any commander who should be unsucessful through even a mere fault of judgment or misapprehension of the circumstances under which he might be acting. Admiral Byng was a sad and shameful instance of this kind of treatment towards men who were honourably doing their best in the public service. Another example is afforded in General Lord George Sackville, the subject of the following trial, who was pursued with full the same malignity as Byng, and who would have undoubtedly perished in the same way had the sentence of the court-martial been stretched to a similar extent. The general's fault, after all, was but a mistake—though a bad one, certainly—amid a confusion of orders; and the king, as in Byng's case, showed no little ingratitude, for Lord George's father had, like Byng's father, Lord Torrington, rendered essential benefits to the House of Hanover. In fact, there is so much of a parallel character in the two trials of Byng and Sackville —so much, too, showing the singular spirit of the age—that they must be read together; and, therefore, in this series,

the court-martial on Lord George comes appropriately after that on Admiral Byng.

Lord George Sackville, afterwards Lord George Germain and first Viscount Sackville, belonged to one of the noblest and most ancient families in England. He was the third son of Lionel Cranfield, K.G., seventh Earl and first Duke of Dorset—an eminent Whig statesman, who began his career of devotion to George I. and George II. by taking across the sea to them, the one Elector and the other Prince of Hanover, the Order of the Garter and their act of naturalisation. Dorset went again, when Queen Anne died, to announce to the elder George his accession to the throne. The duke died Master of the Horse to George III. in 1763. His son Lord George Sackville's earlier career may be briefly told. He was born the 26th January, 1716, and his name of George came from the king, George I. himself, who was his godfather. After the then usual education of persons of rank which had made of him a polished gentleman, Lord George Sackville was named in 1734 Clerk of the Privy Council in Ireland, while his father was Lord-Lieutenant there. In 1737, he obtained a commission in the army, and thus commenced his military career, which was to be checked so unluckily. In 1740 he was made the colonel of a regiment of foot, and soon after aide-de-camp to the king. He showed himself a good soldier, and won much distinction at Dettingen and Fontenoy. He was afterwards with the Duke of Cumberland in Scotland, where he mainly contributed to the suppression of the Rising of '45. He was after that Secretary of State under his father, for the second time

Lord-Lieutenant of Ireland, and he sat in the Irish Parliament as member for Portarlington. He became a Lieut.-General of the Ordnance in 1757, and so high had his reputation risen, that in 1758 he was appointed to succeed Charles, second Duke of Marlborough, a distinguished military leader, as commander-in-chief of the British forces in Germany, then acting under Prince Ferdinand of Brunswick. This brings us to the Battle of Minden. England, and, indeed, almost all Europe, were at the time fiercely engaged throughout the globe in that memorable war which our ally the King of Prussia, at Rosbach and elsewhere, and our own generals, Clive at Plassy and Wolfe on the Heights of Abram, were to make illustrious for ever. On the Continent the Duke of Cumberland, the sanguinary duke of Culloden, had been cutting somewhat of a poor figure, and latterly England confined herself, in the European part of the contest, to sending British troops as auxiliaries to her allies. These troops were commanded in chief, in 1758 and 1759 as stated, by Lord George Sackville, but, somehow or other, he could not approve of or agree with his generalissimo, Prince Ferdinand of Brunswick, George II.'s relative, and Prince Ferdinand in consequence owed him a spite. With the famous Lieutenant-General the Marquis of Granby, who acted under him, Lord George was also not on the best of terms. Amid such a state of feeling among the commanders of the allies, the Battle of Minden was fought and won by them against the French, under Marshal de Contades, on the 1st August, 1759. The action, which was a tremendous struggle, commenced at five in the

morning and raged with varied success during the day, but it is to the latter portion of the contest that the reader's attention should, as far as Lord George Sackville was concerned, be directed.

After much firing on both sides, the allied army, advancing in eight columns, occupied the ground between Halen and Hemman, and the space between the last village and Dodenhausen was filled with Vangenheim's corps. Against this force the enemy directed their principal effort on the left; but the Duke de Broglie experienced a severe check from a battery of thirty cannon prepared by the Count de Buckeburg, Grand Master of the Artillery, which, under his directions, were fired with admirable effect. Towards the right of the allies, six regiments of English infantry and two battalions of Hanoverian guards had to sustain the charge of the French carabineers and gendarmerie. Such, however, were their firmness and courage, that every corps of cavalry, as well as infantry, that assailed them on the left and in the centre not only failed of piercing their ranks, but was itself absolutely broken. The cavalry on the right had no opportunity of engaging. They were destined to support the infantry of the third line, and consisted of the British and Hanoverian horse, commanded by Lord George Sackville, whose second was the Marquis of Granby. They had been posted at a considerable distance from the first line of infantry, divided from it by a scanty wood that bordered on a heath. During the action they were ordered up, but through some error, and this was the offence charged on Lord George Sackville, did not arrive in time to

take part in the struggle. Originally it was not intended that they should be engaged, and there was no occasion for their services. About noon the French gave way, and withdrew from the field of battle. They were pursued to the ramparts of Minden, having lost a great number of men, with forty-three large cannon and many colours and standards. The loss of the allies was much less severe. On the following day the garrison of Minden surrendered at discretion, when many French officers who had been wounded in the engagement fell into the hands of the victors.

Immediately after the victory, Prince Ferdinand published orders relative to the troops under him, and by confining himself to complimenting the Marquis of Granby, clearly implied a severe reflection on that nobleman's superior in command, Lord George Sackville; and the rumour flew to England at once that the complete rout of the French was prevented by Lord George, through cowardice or disobedience, not charging at the opportune moment with the cavalry under his command. Lord George was furious at the imputation. He flung up his appointments and demanded a court-martial. The sensation the whole affair caused is so well described by Smollett, that I cannot do better than borrow from that historian the following graphic account:—

"No subject so much engrossed the conversation and passion of the public as did the case of Lord George Sackville, who had by this time resigned his command in Germany, and returned to England, the country which, of all others, it would have been his interest to

avoid at this juncture, if he was really conscious of the guilt, the imputation of which his character now sustained. With the first tidings of the battle fought at Minden, the defamation of this officer arrived. He was accused of disobeying orders, and his conduct presented as infamous in every particular. These were the suggestions of a vague report, which no person could trace to its origin; yet this report immediately gave birth to one of the most inflammatory pamphlets that ever was exhibited to the public. The first charge had alarmed the people of England; jealous in honour, sudden and rash in their sentiments, and obstinately adhering to the prejudices they have espoused. The implied accusation in the orders of Prince Ferdinand and the combustible matter superadded by the pamphlet writer kindled up such a blaze of indignation in the minds of the people, as admitted of no temperament or control. An abhorrence and detestation of Lord George Sackville, as a coward and a traitor, became the universal passion, which acted by contagion, infecting all degrees of people, from the cottage to the throne, and no individual who had the least regard for his own character and quiet would venture to preach up moderation, or even advise a suspension of belief, until more certain information could be received. Fresh fuel was continually thrown in by obscure authors of pamphlets and newspapers, who stigmatised and insulted with such virulent perseverance, that one would have imagined they were actuated by personal motives and retained by mercenary booksellers, against that unfortunate nobleman. Not satisfied with inventing circumstances to his

dishonour in his conduct on the last occasion, they pretended to take a retrospect view of his character, and produced a number of anecdotes to his prejudice, which had never before seen the light, and, but for this occasion, had, probably, never been known. Not that all the writings which appeared on this subject contained fresh matters of aggravation against Lord George Sackville. Some writers, animated by a hope of advantage, or hired to betray the cause they undertook to defend, entered the lists as professed champions of the accused, assumed the pen on his behalf, devoid of sense, unfurnished with materials, and produced performances that could not fail to injure his character among all those who believed that he countenanced their endeavours, and supplied them with the facts and arguments of his defence. Such, precisely, was the state of the dispute when Lord George arrived in London. While Prince Ferdinand was crowned with laurel, while the King of Great Britain approved his conduct, and as the most glorious mark of that approbation invested him with the Order of the Garter; while his name was celebrated through all England, and extolled in the warmest expressions of hyperbole, above all the heroes of antiquity; every mouth was open to execration of the late commander of the British troops in Germany. He was now made acquainted with the particulars of his imputed guilt, which he had before indistinctly learned. He was accused of having disobeyed three successive orders he had received from the general, during the action of Minden, to advance with the cavalry of the right wing, which he commanded, and sustain the in-

fantry that were engaged; and, after the cavalry were put in motion, of having halted them unnecessarily, and marched so slow, that they could not reach the place of action in time to be of any service; by which conduct the opportunity was lost of attacking the enemy when they gave way, and rendering the victory more glorious and decisive. The first step which Lord George took toward his own vindication with the public was in printing a short address, entreating them to suspend their belief with respect to his character until the charge brought against him should be legally discussed by a court-martial; a trial which he had already solicited, and was in hopes of obtaining. Finding himself unable to stem the tide of popular prejudice, which flowed against him with irresistible impetuosity, he might have retired in quiet and safety, and left it to ebb at leisure. This would have been generally deemed a prudential step by all those who consider the unfavourable medium through which every particular of his conduct must have been viewed at this juncture, even by men who cherished the most candid intentions; when they reflected upon the power, influence, and popularity of his accuser; the danger of aggravating the resentment of a sovereign, already too conspicuous; and the risk of hazarding his life on the honour and integrity of witnesses who might think their fortunes depended upon the nature of the evidence they should give. Notwithstanding those suggestions, Lord George, seemingly impatient of the imputation under which his character laboured, insisted upon the privilege of a legal trial, which was granted accordingly, after the judges had given it as their opinion

that he might be tried by a court-martial, though he no longer retained any commission in the service."

The court-martial thus earnestly demanded by Lord George was held at the Horse Guards at the end of March and beginning of April, 1760. The court consisted of the following members:—

Lieut.-General the Hon. Sir Charles Howard, K.B., President (a general in 1765).
" " John Campbell, Earl of Loudoun (a general in 1765).
" " Lord Delawarr (Sir John West, K.B., afterwards Earl of Delawarr, and in 1765 a general).
" " The Hon. James Cholmondeley (distinguished at the battle of Falkirk, a general in 1770, son of George, second Earl Cholmondeley).
" " The Hon. James Stuart.
" " Earl of Panmure (William Maule, of Kelly, a general in 1770).
" " Earl of Ancrum (Sir William Henry Kerr, K.G., afterwards fourth Marquis of Lothian and a general in 1770: distinguished at Fontenoy and Culloden).
" " Earl of Harrington (William, second earl, a general in 1770).
" " James Abercromby (a general in 1772).
" " Earl of Albemarle (Sir George Keppel, K.G., third Earl of Albemarle, and

brother of the famous Admiral Keppel. He was aide-de-camp to the Duke of Cumberland at Fontenoy, and was commander-in-chief at the reduction of the Havannah).

Lieut.-General Francis Leighton (second son of Sir Edward Leighton, Bart.).

„ „ Lord Robert Manners (son of John, second Duke of Rutland, and a general in 1772).

Major-General Edward Carr (a lieut.-general in 1760).

„ „ Earl of Effingham (Thomas Howard, second earl, and deputy earl marshal; a lieut.-general in 1760).

„ „ Lord Robert Bertie (who had behaved so kindly to Admiral Byng at his trial; son of Robert, first Duke of Ancaster; in 1777 a general).

„ „ Julius Cæsar (who, while with the allied army in Germany, died from a fall from his horse in 1762).

Charles Gould, deputy judge-advocate (afterwards, in 1771, judge-advocate and a knight and baronet, ancestor of Lord Tredegar).

The charge against Lord George was:—"That he, being a lieutenant-general in His Majesty's army in Germany, under the command of Prince Ferdinand of Brunswick, and being by his instructions (which were read in court) directed to obey the orders of the said

Prince Ferdinand, did notwithstanding, on August 1, 1759, disobey the orders that were sent to him by his Serene Highness."

The deputy judge-advocate, Mr. Gould, in a short speech, explained the nature of the charge, and observed that by his lordship's not advancing with the cavalry, agreeably to repeated orders sent him by three aides-de-camp, a signal opportunity was left of ruining the French army, and the cavalry were thereby prevented from gathering the laurels which the infantry had prepared.

The evidence which bore most upon the charge was as follows:

Captain Winchenrode, Prince Ferdinand's Prussian aide-de-camp, deposed that he was sent early in the morning with orders from the Prince to Lord George Sackville to march to the left with the cavalry, in order to sustain the infantry. At the end of the second line he saw Lord Granby, of whom he inquired where Lord George was, saying that he was going with orders to him. His lordship answered, "At the head of the first line," where, accordingly, the deponent found him. He delivered to him the Prince's orders, in French, and afterwards repeated them in French; upon which his lordship said he did not understand them, and asked him twice how it was to be done. The deponent then told him, in English, that he was to march to the left through a little wood (to which he pointed), after which he would come on a heath, where he was to form, and from thence he might see our infantry. After this, the deponent left him.

Being asked, at the desire of Lord George, whether it

did not seem, by our dispositions, that the enemy's cavalry were expected to have been on their flanks, and their infantry in their centre, he replied that he knew nothing of that, nor could pretend to form a judgment either of their dispositions or ours; all he knew was, that he was sent with orders to his lordship.

Lieutenant-Colonel Ligonier (brother of the famous General John Earl Ligonier) deposed that he carried orders from the Prince to Lord George, to march to the left with the cavalry, in order to sustain the infantry and to form a third line behind them on the plain. He delivered them accordingly to his lordship, and told him that he was to march to the left through the wood. Lord George asked him who was to be their guide, and if he would undertake to lead the line. He answered, that he could not promise, but would endeavour to do his best. His lordship then ordered swords to be drawn, and bid them march; and soon after came up Colonel Fitzroy, with orders from the Prince to march up immediately with the British cavalry. On which Lord George, turning to the deponent, said, "Sir, your orders disagree." He replied, "Only in numbers, my lord, but their destination is the same; that is, to the left." Soon after his lordship and Colonel Fitzroy rode away together.

Being asked, at Lord George's desire, if he did not insist on his orders being obeyed, he answered, "Yes," peremptorily.

Lieutenant-Colonel Fitzroy deposed that the reason of his being sent to Lord George was, that the Duke of Richmond had been reconnoitering, and having observed

to the Prince that the enemy's cavalry were in disorder, he said, "Voici le beau moment pour la cavalerie," and bid the deponent go with orders to Lord George Sackville, to march up as fast as possible with the British cavalry. He delivered them, accordingly, when his lordship bid him repeat them, and speak slowly and distinctly. He did so, when his lordship told him that his orders disagreed with those just brought him by Colonel Ligonier, and added, that the Prince could never intend to break the line. He insisted on his having been exact in delivering the orders just as he received them. On which Lord George said he would go to the Prince himself, and away they went together. Being asked "What pace?" answered, "A half-gallop;" but that soon after they set out, Lord George, stopping to speak to Captain Smith, his aide-de-camp, the deponent then pushed on full gallop, and got to the Prince time enough to make his report before his lordship came up. When he told his highness that Lord George was coming himself, he expressed his surprise strongly, not by words, but actions. What passed between the Prince and Lord George, he did not hear. Being asked if he carried afterwards an order to Lord George Granby, he answered, yes, and the occasion of it was this: he was with the prince at Captain Philips's battery, when his highness, seeing the enemy's cavalry in great disorder, said that he thought our cavalry might, even then, be of service. On which the deponent asked if he should go and fetch them. His highness replied, "Yes, make haste, and deliver the order to Lord Granby, for I know he will obey me." He went accordingly, and delivered the order, as di-

rected, to Lord Granby, whose wing, he observed, was farther advanced than the other, which his lordship also mentioned to him. He asked the deponent why he did not deliver his orders to Lord George Sackville. He replied, that as Lord George had disobeyed a former order which he carried, he had now the Prince's direction to deliver this order to him (Lord Granby)—upon which his lordship immediately put the second line in motion. Being asked, by Lord George, whether he had ever reconnoitered the wood, and whether it was close or open, he replied, that he looked at it as he passed through, and the part through which he went was very open; and, as to the breadth, two squadrons might march in front. Being asked whether, if our infantry had been broken by the enemy, the consequence would not have been very fatal, he replied, "Undoubtedly, as the action was on a plain, and there were no cavalry to cover them while they rallied."

Lieut.-Colonel Sloper (of Bland's Dragoons) deposed that on August 1, about four in the morning, Captain Pentz came to his tent, with orders from the Prince for the men to mount; he added, "In order for action." The deponent himself went round the regiment, and found the men lying down in their tents, booted, and the horses saddled, as they had been ever since one o'clock, by an order issued the night before. In about half an hour after they were drawn out, Lord George Sackville came to the head of Bland's, where the deponent was, and bid them march. They had not gone far before Captain Winchenrode, Prince Ferdinand's aide-de-camp, came up and told his lordship, in French, that it was the

Prince's orders that he should march to the left and sustain the infantry on the plain. He repeated it in French. Lord George replied, "Mais comment, mais comment?" The captain then said, in English, waving his hand, that he was to march through those trees (that was his expression), on the left, and then he would come on a heath, where he would see our infantry and the enemy. Winchenrode then went away, and Lord George, saying that he could not understand the orders, the deponent said that it was clear to him that this was to be done by the left of the right wing of cavalry. For about a quarter of an hour after this he did not see his lordship, and they still remained where they were; till at last Lord George came up, and said to him, "Colonel, move your regiment." He replied, "To the left, my lord?" His lordship answered, "No, straight forward." Soon after Colonel Ligonier came to Lord George, with orders from the Prince to march immediately with the cavalry to sustain the infantry on the plain. (The deponent then desired to know if he must inform the court what he said to Colonel Ligonier, and being told, if it related to Lord George, he must, he then proceeded.) The deponent then said to Colonel Ligonier, "For God's sake, sir, repeat your orders, that that man (meaning Lord George Sackville) may not pretend he does not understand them, for it is now near half an hour since we received orders to march, and yet we are still here. [He was sorry (he said) that his oath obliged him to mention what he also added.] For you see, sir, the condition he is in." Colonel Fitzroy then came up, but what he said to Lord George he did not hear, only his lordship then, turning to Colonel Ligonier, said, "Sir, your orders are

contradictory." He replied, "In numbers only; not in destination." Soon after his lordship and Colonel Fitzroy rode away together, and in about a quarter of an hour more the cavalry moved.

Being asked to explain what he meant by those words, "You see, sir, the condition he is in," he replied, that his lordship seemed to him to be greatly alarmed; that when he gave him the orders to march the regiment, he was in the utmost confusion, as appeared by his ordering them to march straightforward, when the original orders were to go to the left; Colonel Ligonier's orders were to go to the left; and when the cavalry did move, it moved to the left.

Prince Ferdinand's Prussian aide-camp deposed that, on Lord George's not bringing up the cavalry on Colonel Fitzroy's order, the prince, being very impatient, directed him to go and hasten Lord George. That on his way, Colonel Fitzroy passed him at a distance, and soon after he saw his lordship coming himself. On which he hastened back to inform his highness that Lord George was coming to take his orders from his own mouth, rather than from him; but that before he could speak, the prince cried out, "What, will he not obey me?"

The Marquis of Granby (a celebrated commander, son of John, third Duke of Portland, and ancestor of the present duke) deposed to the same effect as Captain Winchenrode in regard to his seeing him both in going and returning from Lord George Sackville.

Lord George Sackville made an eloquent speech in his own behalf on the nature of the evidence that had

been brought against him. The substance of the defence was as follows:—That orders were given the night before the battle for the troops to be in readiness at one the next morning; the horses of the cavalry to be then saddled, but not to strike tents or march till further orders; that these orders having been frequently given for a fortnight before, were not alone sufficient to apprise Lord George of an engagement next morning; that the first notice that Lord George, Lord Granby, and other general officers had of an attack was from the firing of cannon between five and six; that Lord George immediately rose, being waked by the sound, and rode from the village where he was quartered to the head of the cavalry, which was then mounted, and he was there before any other general officer of the division; that he marched them, although no orders to march had yet reached him, toward a windmill in front; that when he had advanced a considerable distance, he received an order to halt and wait till he should receive further orders; that while he remained on or near the ground, the artillery had also marched from its ground, though neither had received any orders; and Lord George, imagining that orders to the artillery had been forgotten in the hurry usual upon a surprise, he ordered it to advance in front, where it was of signal service. That Captain Winchenrode soon after brought him an order to form a line as a third line to support the infantry, and advance; that he said nothing about going to the left, between trees, or coming out upon a heath, nor told him where the infantry to be sustained were to be found, but only repeated his orders twice in French,

which Lord George requested him to do, not from any difficulty he found in comprehending the general intention of them, but because they were at first expressed indistinctly through hurry. That Lord George supposing that to advance was to go forward, immediately began to execute these orders, by sending an officer to a Saxe Gotha regiment of foot that obstructed his way in front, to cause it to remove out of his way, thinking it better so to do than to cause our artillery, which obstructed the only other way he could have advanced, to halt, dispatching at the same time a second officer where the infantry he was to sustain was posted, and a third to reconnoitre the situation of the enemy. That while this was doing, Colonel Ligonier came up with an order to advance with the cavalry, in order to profit of a disorder which appeared in the cavalry of the enemy; and that neither did he mention, or at least was not heard to mention, any movement to the left. That the Saxe Gotha regiment being by this time removed from the front, Lord George, in obedience to the concurrent orders of Captain Winchenrode and Colonel Ligonier, as he understood them, and as they were understood by his witnesses, ordered the troops to advance straight forward. That this could not be more than eight minutes after he received the order that had been brought by Captain Winchenrode, because Captain Winchenrode, as he was riding back from Lord George, met Colonel Fitzroy riding to him very fast; and when Colonel Fitzroy arrived, the troops were in motion. That it appears from all the witnesses that they could not be put in motion in much less than eight minutes, as five

minutes were given even by the witnesses for the prosecution for the Saxe Gotha regiment to remove out of the way. That almost immediately after the troops were in motion, Colonel Fitzroy came up and brought the first orders he heard for moving to the left, at the same time limiting the movement to the British cavalry. That then, being in doubt what to do, he halted; the order that arrived last, by Colonel Fitzroy, not superseding the former by Colonel Ligonier; as Lord George and those about him understood, both from Fitzroy and Ligonier, that they brought the same order, having received it at the same time, and brought it at different times by having taken different routes. That not being able to agree, each earnestly pressing the execution of his own orders, Lord George took the resolution to go to the prince, who was not far distant. That Colonel Ligonier went forward, and that as Lord George was riding on with Colonel Fitzroy, he perceived the wood on the left more open than he had thought it, which inclined him to think it possible the prince might have ordered him to the left; and Colonel Fitzroy still vehemently pressing the execution of the order he brought, he sent Captain Smith with orders for the British cavalry to move to the left; the motion to the left and the limitation of the movement to the British being connected in the same order, and both peculiar to that brought by Colonel Fitzroy. That by this means scarcely any delay was made, even by the difference of the orders brought by the two aides-de-camp, Captain Smith not having advanced above two hundred yards beyond the left of the British cavalry; the time, therefore, could only be

what he took up in galloping twice that space. That this period included all the time in which Lord George is supposed to have disobeyed orders by an unnecessary delay.

Numerous witnesses were called in support of this statement—viz., Lieut.-Colonel Hotham, Captain Smith and Captain Lloyd, Lord George's aides-de-camp, Lieut.-Colonel Preston of the Greys, Captain William, R.A., Captain McBean of the train, Captain Hugo, Lord George's German aide-de-camp, Captain Brome, R.A., and the Rev. Mr. Hotham, chaplain to the staff. Their evidence bore out the defence, and among their testimony the most important was that of Lieut.-Colonel Hotham and Captain Smith.

Lieut.-Colonel Hotham deposed that the orders which he received on July 29, for generals to reconnoitre the overtures leading from the camp to the plains of Minden, and on the 31st, for the horses to be saddled, &c., at one the next morning, were communicated to, and obeyed by, his lordship, and that such orders as the last had been frequently issued during the fortnight before. Being asked (as were all the following witnesses) if he perceived any difference in Lord George's looks or behaviour that day, from what was usual, he answered (as did the rest), "None in the least."

Captain Smith deposed that he and Colonel Watson reconnoitered the overtures by his lordship's orders, on the 30th; and that Lord George himself went as far as he could, consistent with his picquet-duty, being lieutenant-general of the day. That by orders from the prince, the cavalry were first formed into squadrons,

and then into line. That while they were forming he was on a rising ground, from whence he observed, that by the time four or five squadrons were formed, Lord George marched them, which occasioned disorder in the rear, they not being able to keep up, which he went and informed his lordship of, who upon that made them halt; and he (the deponent) returned to his post. That soon after they moved again, when a Hanoverian officer, whom he knew, came up to him, and said that they marched so fast in front that they could not keep up, and that their horses would be blown, &c., which the deponent went again and told Lord George of, who then said that he would halt no more, but that he would march slow, and that then the rear, when it was formed, might soon overtake him, but desired them not to hurry. That the place where they were forming the line, he observed, was not wide enough, but riding forward, he observed that there was room enough a little farther, which he mentioned to his lordship, who then ordered them to move on, and the line was soon well formed. And that, as to alteration in his lordship's looks or behaviour that day, he was sure there was none; and that he would have gone to death if it had been needful.

The court-martial pronounced the following sentence:

"This court, upon due consideration of the whole matter before them, is of opinion that Lord George Sackville is guilty of having disobeyed the orders of Prince Ferdinand of Brunswick, whom he was by his commission and instructions directed to obey, as commander-in-chief, according to the rules of war; and it is the

farther opinion of the court, that the said Lord George Sackville is, and he is hereby adjudged, unfit to serve His Majesty in any military capacity whatever."

This sentence George II. confirmed to its fullest extent, and caused it to be directed in the "Gazette," "that the above sentence should be given out in public orders, so that officers being convinced that neither high birth nor great employments could shelter offences of such a nature; and that seeing they were subject to censures much worse than death, to a man who had any sense of honour, they might avoid the fatal consequence arising from disobedience of orders."

Further, at a court at St. James's, the 25th day of April, 1760, George II., in council, called for the council book, and ordered the name of Lord George Sackville to be struck out of the list of privy councillors.

Horace Walpole, in a letter to Sir Horace Mann, dated 26th March, 1810, thus refers to the sentence and treatment of Lord George:—

"The history of Lord George Sackville, which has interested us so much and so long, is at last at an end—gently enough, considering who were his parties and what has been proved. . . . I think this is not the last we shall hear of him. Whatever were his deficiencies in the day of battle, he had at least showed no want of spirit, either on pushing on his trial or during it. His judgment in both was perhaps a little more equivocal. He had a formal message that he must abide the event whatever it should be. He accepted that issue, and during the course of the examination attacked judge,

prosecutor, and evidence. Indeed, a man cannot be said to want spirit who could show so much in his circumstances. . . . But he is a peculiar man; and I repeat it, we have not heard the last of him. You will find that by *serving the king* he understands in a very literal sense; and there is a young gentleman who, it is believed, intends these words shall *not* have a more extensive one."

Horace Walpole was a true prophet in his anticipations. Lord George outlived his disgrace, and rose to high position and power again. For some years subsequent to his trial he lived in obscurity, during which period a piece of good fortune happened to him. Lady Elizabeth Germain, a well-known personage in those days, and a correspondent of Dean Swift, the daughter of Charles, second Earl Berkeley, and widow of Sir John Germain, Bart., of Drayton, Northamptonshire, died in 1769, and left the property her husband left her to Lord George Sackville, who consequently assumed the surname of Germain. In a few years after that George III. restored him to favour and to his seat in the Privy Council, and he was, in Lord North's Administration, appointed American Secretary of State, and, as such, strongly evinced his hostility to American independence. He held office from 1755 to 1782, when, on retiring, he was created in the latter year Baron Bolebrooke and Viscount Sackville. His promotion to the peerage caused a violent debate in the House of Lords on a motion of disapproval "of the introduction into the House of a person stigmatised in the orderly book of every regiment in the service." The motion

was rejected by a majority of sixty-five, and Viscount Sackville lived on peaceably, and died on the 26th May, 1785, at Stoneland Lodge, Sussex.

His lordship, it would appear, was an eloquent writer: the "Gentleman's Magazine" for 1785, in commenting on his death, says:—

"The late Lord Sackville, who was a gentleman of extraordinary talent, wrote a beautiful eulogy on the late Princess of Orange, but which never graced the press. The genius, learning, and exalted virtue of the princess were the theme of his lordship's all-powerful pen. The above noble lord and his illustrious relation, Lady Betty Germain, had the art of painting in words to a very eminent degree, and which afforded the finest ornaments in either poetry, history, or elocution. The very animated and beautiful imagery of Cicero, in which he paints the cruelty of Verres, is spoken of with rapture by her ladyship in some of her letters. It is in a letter to the above lady that Dean Swift styled Ireland 'the Isle of Saints,' from the many very pious and eminent men it produced; it was also, he said, the school of wisdom and the seat of knowledge."

Lord Sackville's honours were inherited by his eldest son Charles, second Viscount Sackville, who eventually became fifth and last Duke of Dorset. The only child and heiress of the first Viscount Sackville's second son, George, is the present Mrs. Caroline Harriet Stafford, of Drayton House, county Northampton, a seat formerly the property of her grandfather, the Lord George of this narrative, whose representative this lady now is.

The dukedom of Dorset is extinct, but one of the

baronies belonging to the family, that of Buckhurst, was, on the 27th of April, 1864, revived by new patent of creation in favour of Elizabeth, present Countess Delawarr, daughter and heiress of John Frederick, third Duke of Dorset, with limitations to her younger sons and their issue male. Thus, oddly, a descendant of the General Lord Delawarr who sat on the court-martial of Lord George Sackville, may be bearing a title which belonged to Lord George's own ducal line.

THE DOCKYARD INCENDIARY, JACK THE PAINTER.

The American War was in 1776 at its height, and though some successes were for the moment cheering the spirits of the British Government, it already required but little foresight to see how the contest would end. The revolted colonies, with their declaration of independence, their President and Congress, had virtually become a new empire among the dominions of the world, and France was evidently about to give its aid to their complete establishment. It was just at this period that occurred the following extraordinary and execrable act of felony, the work of a single villain, guided by a kind of morbid enthusiasm and desire of notoriety. That Dr. Franklin, or Silas Deane, or the French Court, had aught to do with the crime is not in the least credible. It was, in a moment of war, the natural though questionable policy of the British Crown and its officers to tinge as much as possible the cause of the enemy. Hence the prisoner's lying accounts of interviews with Mr. Deane, and of other transactions abroad, were skilfully relied upon and allowed to go forth as casting suspicion on the American and French Governments. The incendiary, however, did not support his averments

with one tittle of evidence to inculpate any accomplice high or low, and so, on maturer consideration, thought the British Government and the public; for after the execution of the culprit, no political notice whatsoever was taken of the charges he brought against either America or France. It would, indeed, be an insult to the transcendent fame of Franklin, or the high character of Deane, to for an instant suppose them sharers in such atrocity. The burnings perpetrated by Jack the Painter are to be ascribed to the wretch's malignant nature alone.

To come to the shameful affair itself. A fire had happened in the rope-house at Portsmouth on the 7th December, 1776, and had passed for an accident; and as no suspicion had fallen on any one, no inquiry was made about it, till, on the 15th of January, 1777, Mr. Russell, one of the under-clerks of the dockyard, having occasion to use some hemp in the hemp-house, discovered a tin machine, constructed for holding matches, and in the cavity at bottom spirits of wine. The matches had been lighted, and were nearly burnt out; but the fire had not reached the spirits, the want of air, as it is supposed, having extinguished it before it had its full effect. This left no room to doubt but that the late fire was wilfully and maliciously contrived.

If it had burnt as low as the cross-lines, it would have caught the matches placed on the sides, and would have burnt in four channels down to the spirits, which would have set the whole place in a blaze. The machine was made of tin, except the bottom, which was of wood. It was about the size of a half-pound tea-canister.

The stores in the store-house, which would have been burnt if it had caught fire, were sufficient to have rigged out fifty sail of ships.

It was then that the whole dockyard was alarmed. Some hundreds of workmen were instantly drawn together, and every one looked at his neighbour, convinced that whoever was the contriver of that machine, and had placed it there, was the incendiary.

This called to mind every minute circumstance that had happened previous to the breaking out of the fire on the day mentioned, and it occurred to one that a fellow had been locked into the rope-house the night before; to another, that a man, whose name was unknown, had been seen loitering about the yard on the very day; and to others, that he was a painter and had worked in the neighbourhood, and as he had never been seen there after the fire, a strong suspicion arose that he must be some way or other concerned in the mischief that had already been done, and also in the diabolical design which providentially had been defeated. A singular advertisement was issued, describing the person of the man, and under the name of John the Painter, offering him a reward of £50 to surrender himself to examination, and the same reward to any one who should apprehend him. In the meantime other fires broke out, particularly at Bristol, which could not otherwise be accounted for than by supposing American agents employed to spread fire and devastation throughout the kingdom, wherever their malignant purposes could be executed with effect—an idea that favoured the prejudices of the vulgar, and therefore was the more easily

credited. It was not long, however, before Sir John Fielding, the able police-magistrate (half-brother, by the way, of the author of "Tom Jones"), found means to trace this John the Painter out, and some time about the beginning of February he was apprehended at Odiham, in Hants, for a burglary, and brought to town for examination.

The news of his commitment was soon spread; and it having been reported that he had been in America, and had worked there as a painter, Richard Earl Temple, K.G., P.C., desired one Baldwin, a painter, who had likewise been in America, and had done business there, to attend his examination before Sir John Fielding, to see if he could recollect him. But Baldwin, upon looking at the man, and being asked the question, frankly declared that he had never before seen him in his life. This open declaration, after others, as he said, had borne false witness against him, moved the prisoner in favour of Baldwin, and he expressed a strong desire to cultivate an acquaintance with him, which Baldwin did not decline, being encouraged to visit him as often as opportunity offered, in order, if possible, to bring him to confession. This had the desired effect, and brought the whole scene of iniquity to light. After a regular attendance on him for fifteen days, sometimes once a day and sometimes twice, the prisoner at length began to trust him, and to speak openly. He told him that he had been in France; that he had there seen Silas Deane, the American ambassador at the Court of Versailles; that Silas Deane had given him some money and had encouraged him to set fire to the dockyards at

Portsmouth, Plymouth, Woolwich, &c., as the best means of distressing Great Britain, and that he had promised to reward him according to the service he should do to the American cause; and that, as an earnest of what should follow, he had given him a recommendation to, and bills upon, a merchant in London to the amount of £300, which, however, he had found necessary to burn to prevent a discovery; that, in consequence of this encouragement, he procured a passport from the French king, which passport he lamented that he had left at Portsmouth, with other things, in a bundle; that from France he came to Canterbury, where he devised the machine which had been found in the hemp-house, and had it there constructed; that before he left Canterbury he had a quarrel with a dragoon; and that when he removed from thence he directed his course to Portsmouth, where he prepared the combustibles with which he afterwards set the place on fire. He disclosed to Baldwin the secret of making the composition and the manner of his applying it, and told him the circumstance of his being locked in the rope-house; of his quarrelling with his landlady, on account of the interruption she gave him in his operations; of her forcibly turning him out of her house; of his taking another lodging; of the difficulty he had in lighting his matches; of his purchasing other matches; of his flight from Portsmouth in a woman's cart; with many other particulars.

The prisoner was committed, and his trial came on at the assizes for Hampshire, on the 6th March, 1777, at Winchester, before Sir William Henry Ashurst, Knt.,

a judge of the Court of King's Bench, and Sir Beaumont Hotham, Knt., a baron of the Exchequer.

The grand jury which had found the bill against the prisoner had for foreman Henry, second Viscount Palmerston, father of the late illustrious premier.

The counsel who appeared for the Crown were William Davy, serjeant-at-law; Mr. Mansfield (afterwards Sir James Mansfield, Solicitor-General, and subsequently Lord Chief Justice of the Court of Common Pleas); Mr. Missing; Mr. Buller (afterwards Sir Francis Buller, Bart., a judge of the Courts of King's Bench and Common Pleas); and Mr. Fielding.

The prisoner appears to have had no counsel, but to have acted for himself throughout the whole trial.

The indictment was thus opened by Mr. Fielding:—

"May it please your lordships and you gentlemen of the jury, this is an indictment against the prisoner at the bar for a crime of so atrocious and uncommon a nature, as to render it impossible to affix any epithet to the crime descriptive of its enormity. This is, gentlemen, the first instance of its existence, and I hope in God it will be the last. The indictment, you have perceived already, turns upon three counts: the prisoner at the bar is first charged for setting fire to a quantity of hemp and ropes particularly specified; the second count is for setting fire to a certain building erected in the dockyard, called the rope-house: the third count is for firing His Majesty's naval stores. Gentlemen, the matter will be more fully opened to you by the learned and experienced gentleman who leads this business, and I doubt not but your verdict will be satisfactory to your country."

Mr. Serjeant Davy then stated the case, commencing thus:—

"May it please your lordships and you gentlemen of the jury, I am of counsel in this case for the king in the prosecution of the prisoner at the bar, who is described by the name of James Hill, otherwise James Hinde, otherwise James Actzen, for setting fire to the rope-house at Portsmouth dock, belonging to the Crown, the place where the cordage is made to supply the king's navy, and which crime is constituted a capital felony by an Act of Parliament made in the twelfth year of his present Majesty (12 Geo. III., c. 24), till when it had not entered the imagination of man that such a crime could be committed at all. It will be unnecessary for me to expatiate upon the nature of the offence; that has nothing to do with the prisoner at the bar, any more than as he was an agent in the commission of it; and it will be necessary for me, therefore, to mention to you only those particulars that we have to lay before you in evidence, by which to affix the crime upon the prisoner, and to submit to you, upon the consideration of those facts, whether he is or is not guilty of the charge in the indictment."

The learned serjeant then went through the whole of the evidence he was about to produce, and concluded thus:—

"The tenth part of these circumstances, which I have opened, would serve, I should think to decide the fate of any man standing in the prisoner's situation; but it is the wish of the public, it is the wish of the Government, that all the world should know the infamy of this transaction, and that they should know to whom they

ging indebted for the sorrows they have felt, and how much they owe to the Providence of God, that America has not been able totally to destroy this country, and to make it bow its neck, not only to the yoke of America, but to the most petty sovereign in Europe; for let the English navy be destroyed—and here was a hand ready to effect it;—let but the English navy be destroyed, and there is an end of all we hold dear and valuable. The importance of the subject, the magnitude, the extraordinary nature of the thing calls for a more particular investigation than any other subject, of what kind soever, could demand; and therefore I need, I hope, make no apology for having descended so particularly into these minute, if any of them can be called minute, particulars of this story; we shall prove all these circumstances to the full, and surely there can be no doubt what shall be done with the man. I shall be glad to hear what he has to say for himself; and I shall be glad if he is able to lay this guilt at any body's door besides those to whom he has laid it. I wish Mr. Silas Deane were here; a time may come, perhaps, when he and Dr. Franklin may be here."

Prisoner: He is the honestest man in the world.

The testimony adduced was overwhelming, but as the prisoner's subsequent confession fully relates every incident, it is needless to go here into the details. Suffice it to state that the lad who made the canister, the dragoon with whom the prisoner quarrelled at Canterbury, the woman at whose house he lodged at Portsmouth, the man who let him out of the rope-house, the persons who saw him in the dockyard, the woman who sold him the matches, the woman who took him up in her cart in

his flight from Portsmouth, and last of all the bundle in which was his passport from France, with the identical articles in it, which he had specially mentioned to Baldwin; all these were produced in addition to and confirmation of Baldwin, who proved what he had heard from the prisoner himself.

One incident which occurred, while Baldwin was giving his evidence, is curious as showing how such statesmen as Silas Deane and Benjamin Franklin were at that time thought and spoken of in England; it was this:—

Baldwin: I mentioned to him about my family, that I had my son with me now in London; he was desirous to see him. I told him my wife was very much indisposed, which he said he was sorry for. I waited upon him from day to day, till the 15th February; on that day he told me all the particulars; he asked me if I knew one Mr. Deane. I told him "No;" he said, "Not Mr. Deane who is employed by the Congress at Paris?"

Prisoner: I remark to the witness that there is a righteous Judge, who also giveth righteous judgment; beware of what you say concerning that Mr. Deane. Perjure not yourself; you are in the sight of God, and all this company is.

Baldwin: The prisoner said, "What, not Silas Deane?" I told him "No;" he said "He is a fine clever fellow, and I believe Benjamin Franklin is employed in the same errand." He said he had taken a view of most of the dockyards and fortifications throughout England, and particularly the number of guns that each ship in the navy had, and likewise the guns in the fortifications, the weight of their metal, and the number of men; and he had been at Paris two or three times, to inform Mr.

Silas Deane of the particulars of what he found in examining the dockyards.

Prisoner: Consider, in the sight of God, what you say concerning Silas Deane.

Counsel for the Crown: You need not be afraid. Silas Deane is not here; he will be hanged in due time.

Prisoner: I hope not; he is a very honest man.

The only piece of evidence (beyond the prisoner's own statements) by which the Crown could throw out an inference that he was tampered with by a foreign power, was the French passport produced; but as at its date England was not at war with France, such a document might have been procured as a matter of course.

The translation of the passport, which was read in court, was as follows:—

"Exhibited at the Office of Marine, at Calais. By the king. To all governors and our lieutenant-generals of our provinces and armies, governors particular, and commanders of our towns, places, and troops; and to all others our officers justiciary, and subjects to whom it shall belong—Health. We will and command you very expressly to let pass safely and freely, Mr. James Actzen, going to England; without giving him or suffering him to have any hindrance; but on the contrary, every aid and assistance that he shall want or have occasion for. This present passport to be valid for one month only, for such is our pleasure. Given at Fontainbleau, the 13th of November, 1776.

"Louis. By the king, De Vergennes. Gratis."

After the accused had made a very rambling defence, impugning Baldwin's veracity, the judge summed up

clearly and minutely, and the jury almost immediately found the prisoner *Guilty*.

The prisoner was then asked in the usual form what he had to say why sentence of death should not be passed upon him, to which he replied, "I have nothing to say."

Mr. Baron Hotham pronounced judgment as follows:—

"Prisoner, you have been indicted, tried, and convicted of a crime which the law of this country has thought fit to make capital, and now the most painful moment that I have undergone in the course of this trial is arrived, for it is my duty to pass upon you that dreadful sentence. I shall not interrupt those feelings which I trust you have by talking to you of the enormity of the offence which you have committed, because it is impossible for me, or any man who hears me, to add a word by way of aggravation to it, and it has this in particular about it, that it cannot have been committed from any motives of private malice, revenge, or lucre. It can have proceeded only from a general malignity of mind, which has broke out in a desire and a design, not only to ruin one devoted individual, but to involve every one of this audience, nay, the whole English nation perhaps, in immediate ruin. You cannot, therefore, be surprised that the law has thought fit to punish such a crime with death. You can as little be surprised if, after you have been convicted upon the clearest evidence of this offence, I can give you no hope of pardon.* It is impossible for me to say a word on your behalf, and therefore I must entreat and conjure you, in the most solemn manner, to prepare yourself during the few days you have to live,

* The prisoner interrupted and said, "I do not look for it, my lord."

to meet the great God in another world, and to ask him there for that pardon which you could not receive in this; there it will be worth receiving; and atrocious as your crime has been, short as the time is that you have to live, a sincere repentance now on your part may, and I hope in God will, procure you mercy at His hands. I say all this not to taunt or distress you in your present unhappy situation, but merely from motives of humanity and religion. For you cannot be suffered to live in this world; you must die, and that within a very few days. And therefore, before you go into eternity, for your soul's sake do what you can, that that eternity may be an eternity of bliss instead of misery. I have only now to pronounce the painful* sentence of the law which I am bound to do, and I accordingly adjudge and order you to be hanged by the neck until you shall be dead; and the Lord have mercy upon your soul."

The Prisoner: "My lord, I am exceedingly well satisfied."

On the morning after his condemnation, he informed the turnkey of his own spontaneous accord that he felt an earnest desire of confessing his crime, and laying the history of his life before the public; and that, by discovering the whole of his unaccountable plots and treasonable practices, he might make some atonement to his most injured country for the wrongs he had done, of which he was now truly sensible, and a repentant sinner.

This request being made known to John, fourth Earl of Sandwich, then First Lord of the Admiralty, that

* When his lordship mentioned the word "painful," the prisoner said "joyful."

nobleman directed Sir John Fielding to send down proper persons to take and attest his confession. The culprit confessed accordingly, and the statement signed by him, and dated 7th March, 1777, was attested by George Durnford and N. P. Smith, Esqs., Justices of the Peace for the city of Winchester. It tallies with the more lengthy account of his hideous career which the prisoner also drew out, signed, and left for publication.

The prisoner was carried from Winchester Gaol on the 10th March, 1777, to Portsmouth, where it was appointed he should be executed at the dock gate.

Having been carried in an open cart by the hemp-house, and round the ruins of the rope-house, when he came opposite the commissioner's house he desired to speak with the commissioner, who thereupon went up close to him. He said:—

"Sir, I acknowledge my crime, and hope for forgiveness from God, through the merits of my Saviour Jesus Christ. I ask pardon of you, sir, and hope your forgiveness."

Upon the cart's moving, he said, "he had one thing more to observe as a caution to all the commissioners of the dockyards throughout England, to be more vigilant and strictly careful of them for the future, because it is in the power of a determined and resolute man to do a great deal of mischief." As the cart stopped at the end of the rope-house, he looked attentively at the scene of his offence, and said, "I acknowledge my crime, and am sorry for it." On returning out of the dockyard, upon being asked if he had anything more to say to the com-

missioner, he said, "No; only I recommend great care and strict vigilance at the dockyards at Chatham, Woolwich, Deptford, Portsmouth, and Plymouth, and particularly at the rope-house at the latter." Just before he was turned off he said :—

"I acknowledge the justness of my sentence, and hope for forgiveness, as I forgive all the world. I wish success to His Majesty King George and his family, and all his loyal subjects, and I hope for forgiveness of all the transactions that I have been guilty of from the year 1772, since my apprenticeship, and the world will be satisfied about me, as my life will be very soon in print."

The convict then giving the signal, was drawn up by the pulleys to the top of the gibbet, which was made of the mizen mast of the *Arethusa* frigate, and was sixty-four feet and a half high. He hung one hour, and was taken down and suspended in chains on Blockhouse Port, at the mouth of Portsmouth Harbour, where his body remained gibbetted for several years.

The prisoner's full confession was published after his death, and it forms so extraordinary a narrative, that the major portion of it may not be inappropriately inserted here. It runs as follows :—

"I drew my first breath at Edinburgh, in Scotland. My father, David Aitken, was a whitesmith, which business he for many years carried on in a creditable way. I was brought up in the persuasion of a Protestant dissenter, and being the only son, was treated with that paternal affection which, by gratifying all my desires, begot in me the most stubborn and obdurate disposition.

At nine years of age I was placed in Heriot's Hospital at Edinburgh, a charitable foundation of the same kind with Christ's Hospital in London, where, continuing for six years, and having the advantage of a liberal education and a natural taste for drawing, I was at the age of fifteen apprenticed to an eminent painter in the city of Edinburgh, and I served the whole of my apprenticeship, much to my own credit, and to the satisfaction of my master. My leisure hours were generally employed in reading the most favourite subjects of the marvellous kind, such as the desperate expeditions and engagements of brave men both by sea and land. At the expiration of my apprenticeship, I set off with my mind thus prepared to seek my fortune. I had before lost my father, whose sudden death prevented him from placing me in business under his own eye, as was his original intention. His circumstances were such as could not enable him to make provision for me equal to the notions I had entertained. I had very early contracted an itch for the service, and notwithstanding the affairs of my father, I had yet hopes of procuring a commission in the land forces. I applied to my mother to assist in importuning my friends and relations to serve me in this particular. But our endeavours were in vain, and I saw the object of my ambition beyond my reach. I therefore, in a fit of resentment, embarked for London with all the money I could scrape together, not doubting but I should get into some creditable employ before it was all spent.

"On my arrival in the great metropolis, I applied to people in the painting way, and immediately got into employ. But business not long agreeing with my incli-

nation, and having formed an acquaintance with some extravagant young men, by whom I was led into all manner of vice and debauchery, I soon found the last farthing of my little pittance expended. In this condition, deserted by my companions, and in a strange country, I determined to relieve myself on the highway. I accordingly provided myself with pistols, and without the least concern or apprehension of danger, proceeded to Finchley Common. Perceiving a post-chaise, I made up to it, and with a discharge of one of my pistols, demanded them to stop. My success in the first attack tempted me to proceed, so that before midnight came on I had robbed several carriages and horsemen, and upon the whole had collected a considerable booty. I returned to London with great satisfaction, and finding out my old companions, informed them I had just received a large sum of money. They congratulated me on my good fortune, and readily took me again into their party. I observed myself advertised, and an exact description of my person and dress in all the papers. It was therefore my first care to change my clothes and make every alteration in my person I could possibly devise, and it was my fortune to escape undiscovered. My own excess and that of my companions soon reduced me to the last shilling; at length, dreading the consequences of a detection, I determined to seize the first opportunity of leaving the kingdom. America presented itself to my imagination, and I readily believed it would turn out most to my advantage. Hearing of a vessel bound to America, I made application to the master, Captain John Robertson, who took me into his service: but not having money to

provide myself with such things as were necessary for the voyage, I indented myself to him till such time as I should pay him twenty-four pounds Virginia money, and then was to have my full liberty. Soon after my arrival in Virginia, Captain Robertson having taken in a freight for England, consigned me over to one Mr. Graham, of James' Town. But as it never was my intention to remain longer with the captain than suited my convenience, I immediately quitted the service of Mr. Graham, and travelled up the country through Maryland, till I arrived at Philadelphia. From thence I went to Amboy, and got employment in the painting business; but hearing there was better encouragement at New York, I made the best of my way to that city, where I received better wages, and remained very well satisfied for a considerable time. Upon hearing of the riots at Boston, the restlessness of my disposition would not suffer me to remain any longer at New York, and meeting with a companion, we agreed to set out together for that place, and I cannot deny being very active in those riots, particularly in sinking the tea, and insulting the friends of Government. When I heard of the armaments raising in Great Britain against America, and the expectation of a British fleet at Boston, I thought it advisable to leave the place, and therefore took the opportunity of a vessel and went to North Carolina, where meeting with another vessel bound to England, I got leave to work my passage home, and arrived at Liverpool in May, 1775. As soon as I had landed, having no money, I enlisted into a recruiting party, and received twenty-six shillings, with which in a few days I deserted, intending to go to Shrewsbury. In

my way between Warrington and Holmes Chapel, I broke into a little shop and stole several handkerchiefs, &c. By the time I left Shrewsbury my money was nearly exhausted, upon which I broke into a shop and robbed it of a quantity of halfpence and about five shillings in silver, and I made off in the night for Birmingham. Soon after I arrived at Birmingham I purchased a pistol and several picklocks, and after pilfering a number of shops, I left Birmingham and took the road to Coventry. In my way to that city I broke open a house in a little town a few miles from it, where I stole a great quantity of handkerchiefs, &c., with which before daylight I reached Coventry.

"On my arrival at Coventry I met with another recruiting party, into which I also enlisted. I received half a guinea earnest, with which I absconded in the morning. I went to a hedge a little way out of the town, where I had secreted the handkerchiefs, and set off with them on my return towards London. I continued in London almost four months, where I got into connexion with some women of the town, which led me to commit a number of street robberies for my support. I also broke open a house at Kensington, and committed several robberies upon the outskirts of London."

Here follows a detail of other fraudulent enlistments and felonious offences committed by him in various parts of England. He then comes to the great crime which brought him to the scaffold:—

"One night being in conversation concerning the American war, the importance of His Majesty's fleets and dockyards was the argument, and it was with satis-

faction I heard every one agree that the safety, the welfare, and even the existence of the nation depended on them. I endeavoured to keep the conversation up as much as possible, and the more it was canvassed, the more evident was the truth of the former conclusion. It is amazing with what force this conversation kept possession of my mind. In the night I had a thousand ideas, and all tended to show how important would be the event in favour of America, provided these dockyards and shipping should be destroyed. The more I considered, the more plausible was the undertaking. I spent two days in the contemplation of this malicious design, and promised myself immortal honour in the accomplishment of it. I beheld it in the light of a truly heroic enterprise, such as never would have been equalled to the end of time. I was persuaded it would entitle me to the first rank in America, and flattered myself with the ambition of becoming the admiration of the world! I set off for Portsmouth to inform myself of the particular situation, as also of the materials and stores with which these magazines were composed. I took account of all the ships of war in the harbour, their force and the number of men. I also took a plan of the fortifications unnoticed by the sentinels, the number of guns mounted on them, and their weight of metal. From hence I went to Plymouth, where I found things in much the same situation. My next care was to visit Chatham with the same circumspect attention, and in which I conducted myself with the same success. From hence I went to the yards at Woolwich and Deptford, and in both places informed myself of everything material.

Having spared no labour in perfecting this general survey, I formed a design of going over to America to lay my plans and observations before the Congress, as well as to procure their sanction to the undertaking. After a deal of argument with myself, I at length resolved to proceed to Mr. Silas Deane and Dr. Franklin at Paris. I re-examined all my plans, threw my observations into proper order, and secreted them in a private part of my clothes to prevent an accidental discovery; and having made every other necessary preparation for my departure, I made the best of my way to Canterbury and Dover.

"I hired a small sailing boat to take me over. I embarked with only two hands, and in less than nine hours landed at Calais without any further difficulty. I made my way pretty readily and expeditiously to Paris, sometimes taking the advantage of a carriage, and sometimes walking on foot. My first inquiry at Paris was to find out the lodgings of Mr. Silas Deane. I called upon him at two different times, but did not meet with him at home. I at last saw him on the *Pont Neuf* in Paris. He treated me at first with great caution and indifference, but finding my solicitations very earnest, he desired I would meet him the next morning at his lodgings. I called on him at the time appointed, and was conducted into an elegant apartment, where he was waiting for me. To make myself of as much consequence as possible, I informed him that I had a plantation in America; that I was an utter enemy to Great Britain; that I had contrived a scheme which, if properly carried into execution, would effectually destroy the power of the Ministry, and

throw the kingdom into the greatest confusion, if not into the hands of America. He expressed great surprise at my conversation, and desired me to give him an explanation of my meaning. I laid before him all my plans, and he at length seemed satisfied that it was practicable, and gave me a letter to a friend in London to supply me with money; and as soon as my pass was procured, I set off for Calais, and arrived at Dover, which place I immediately left, and took the road to Canterbury and Chatham. Here I spent two days in making some fresh observations on the ships and dockyards, after which I set out for London, in order to take road for Portsmouth.

"I arrived at Portsmouth on Thursday evening, the 5th of December, 1776, and immediately began to lay down a plan of operations. I concluded that in so large a place a number of fire engines were kept, and that on the first alarm they would fly to the assistance of the dock, and perhaps extinguish the fire before any considerable damage could be done. To prevent this I thought it would be necessary to set the town on fire at two different parts, imagining that the surprise and consternation which it would naturally occasion would prevent people from giving assistance to either, till the flames had made such progress as not to be got under. In the morning I applied at two houses for lodgings, one of which was occupied by Mrs. Boxell. I agreed with her for them. I left my bundle with her and said I should return in the evening. From hence I went to a public-house, refreshed myself, and engaged also for a bed. My next care was to visit the dockyard. My first intention

was to set fire to the hemp-house, in which I secreted myself behind a large mow or bundle of hemp, supposing there was no danger of being discovered, although a number of men were employed in different parts of the building, under which I placed my combustibles, and intending to go in about two hours afterwards to set it on fire. But lest this should not take proper effect or be extinguished before it could communicate itself to other parts of the yard, I thought it would be more effectual to set fire to some other store-house also. In walking round the yard I observed the rope-house open, into which I went, and having gone all over it up stairs and down, I pitched upon a room containing a parcel of ropes and some hemp, which I thought a very proper place to set on fire. I went away and returned with two quarts of the spirits of turpentine, some gunpowder, and some touch-paper which I had previously made. I drew the cork from one of the bottles, and having prepared a train of hemp soaked in the spirits, I filled the neck of the bottle therewith, which I placed among the ropes, and covered it over with a quantity of refuse hemp which I found lying about. I placed the bottle upon its side, and put the train of hemp into a paper of dry gunpowder, and having covered the whole lightly over with hemp, I sprinkled the remaining spirits of turpentine upon the whole. I now pulled out my pistol tinder-box and endeavoured to strike a light in order to set it on fire; but the tinder being either damp or badly burnt, would not take fire. The attention with which I was endeavouring to light my match prevented me from observing the time, and therefore when I had found it im-

possible to strike a light, and was preparing to go to my lodgings, I found myself locked into the house. I was a little uneasy upon this occasion for fear of raising suspicion, particularly as I should be obliged to appear again to light the matches, which I had now failed in. I went from one end of the building to the other, which was of a prodigious length, and tried every door I could find, but all was fast. I went up stairs very gently for fear of being heard, intending to make my escape from one of the windows; but this I also found impossible. I then went back to the door at which I came in, and knocked for a considerable time. At last a lad came up and asked who was there. I told him I was a friend, and had come into the dockyard out of curiosity, having never been at Portsmouth before, and while I went up stairs to see this great building somebody had locked up the doors. I therefore begged he would let me out. He went away to call some other person, who directed me to a certain door in the building, at which he said I might let myself out. In order to allay their suspicion, I appeared to be very ignorant in every respect, and asked them a number of simple questions, for I very much expected to be taken into custody.

"I went to a public-house to refresh myself, and from thence to my lodgings, at Mrs. Boxell's. I went to bed and slept till about five o'clock in the morning of Saturday, the 7th of December, when I struck a light and got up. My first business was to mix up proper combustibles to set that house on fire, and the public-house I had before taken lodgings at. The sulphureous smell occasioned by the flammable articles brought up Mrs.

Boxell, who in a violent passion burst open the door, asked me whether I was setting the room on fire, and insisted upon my leaving her house, saying she was sure I could have no good design. Finding her in earnest, I thought it most prudent to quit her lodgings without entering into further dispute, which could only tend to injure my business; so I took my bundle and walked almost two hours round Portsmouth Common to seek for another lodging. Observing a house in North Street which seemed to answer my purpose, I went in and agreed for a lodging, saying I was going a little way out of town, but should return in the evening; in the meanwhile desired the woman of the house (Mrs. Cole) to take care of my bundle.

"My next object was to accomplish the business in the dockyard. I went first to the hemp-house, and after waiting a safe opportunity, got into the room where I had left the materials, struck a light with my pistol tinder-box, and lighted the candle which I had before placed in the tin case under the hemp. I since find that this machine did not take effect. Having, as I thought, effectually completed my business here, I directed my steps towards the rope-house, and after waiting almost two hours, I took an opportunity of lighting the match that communicated to the gunpowder, which I believe took effect in about an hour and a half. The instant I had finished I quitted the dockyard, intending to go immediately to set fire to both my lodgings; but meeting a person near the dock gates who knew me when I worked at Titchfield during the time I was making my observations, and seeing him

look at me very steadfastly, and recollecting at the same instant the affair at Boxell's, I ran very precipitately out of town without giving myself time to call for my bundle, dreading an information, and the consequence of being taken into custody. When I had gone a little way out of town, I overtook a cart going from market, and in order to make more haste and be less observed, I prevailed with the woman who drove the cart to give me a lift, telling her I had to go to Petersfield that night, and would make her any satisfaction. I travelled all night without intermission, and arrived upon Kingston-upon-Thames about eleven o'clock on Sunday morning, where I stayed upwards of three hours to refresh myself.

"On my arrival in London, I concluded myself out of danger, and began to ruminate on my plan for the destruction of Plymouth; and arrived at Plymouth, and went with a design to visit the dockyard; but to my great surprise found the guard stricter, and the admission of strangers objected to, occasioned, as I was informed, by the burning of Portsmouth dock, which was supposed to have been purposely set on fire."

He then enters into a detail of his attempt at Plymouth, where he could do nothing effectually owing to the vigilance of the sentinels. He thereupon turned his mind to Bristol:—

"Very much vexed at my disappointment, I determined to make the best of my way to Bristol; and as I was disappointed at Plymouth, resolved to destroy Bristol entirely and all the shipping. I arrived at Bristol on Monday, the 13th of January, and spent the whole

of Tuesday, the 14th, in acquainting myself with the shipping, upon which I intended to make the first attempt, supposing, if I had any success, they would communicate the flames to the whole town. About midnight I proceeded with all my materials towards the quay. I got on board the *Savannah la Mar*, a Jamaicaman, and placed a quantity of turpentine, rosin, pitch, &c., round the mizen mast, to which I set fire. I then went on board the *La Fame*, another Jamaicaman, which lay at a little distance, in which I also placed a like quantity of combustible matter, and set fire to it. I then proceeded to another part of the quay, and got on board the *Hibernia*, an Irish trader, in which I placed a like quantity of inflammable materials, and a quart bottle of spirits of turpentine, to which I also set fire. I then broke open a warehouse belonging to a druggist, in Cypher Lane, supposing there were large quantities of oils and spirits of different kinds, which would occasion a dreadful fire in that part of the town. I set fire to a box in the middle of the warehouse, which I supposed would soon communicate to all parts of it. Having, as I thought, effected my business very complete, I walked almost four miles out of town, and stayed till near eight o'clock in the morning; but not perceiving anything of the fire, I returned to see whether it had taken effect, which I could do without suspicion, as I supposed people would see that I had just come into town. I went to the quay, where I observed one vessel, the *Savannah la Mar*, was much burnt; but the fire in the other two had gone out without taking effect. I also found I had miscarried in Cypher Lane, where the box of combustible

matter had burnt out without doing any damage, which I thought very extraordinary, as I made sure of burning all that part of the town by this means. I was mostly vexed at the miscarriage among the shipping, as I found a strict watch was to be kept up in future which rendered all future attempts upon them impracticable; I thought of one scheme, however, which I had some hopes of succeeding in. Observing a vast number of barrels of oil upon the quay, situated very near a line of ships, I contrived the ensuing night to convey a large quantity of combustible materials amongst them, to which I set fire, hoping by this means to burn all the ships that lay near: but herein also I found myself disappointed; my matches went out without effecting the intended mischief, though greatly to my mortification. About two o'clock the next morning I proceeded to my new business, having the evening before fixed upon a number of warehouses, which I supposed, as it was now Sunday morning, would not be frequented, and therefore little danger of the fire being discovered till it had taken proper effect. I laid matches in upwards of a dozen warehouses, which I supposed would take fire before daylight, and from their number and situation be impossible to be got under, so that I promised myself I had accomplished the destruction of the whole town, or at least that part of it which was of most consequence. With this persuasion I left Bristol about six o'clock in the morning, and walked about three miles out of town, when turning round, I thought the whole element was in flames, so dreadful was the appearance it had at that distance, which tempted me to return to be an eye-

witness of the destruction I had wrought. On my nearer approach the flames seemed to abate; but I found the whole city in consternation and terror; though my scheme had not answered my full intention. My matches had only taken effect in Quay Lane among the warehouses of Mr. Browne, bookseller, which occasioned a dreadful fire in that part of the town: in every other part I found my endeavours had failed. To compensate for this, I determined to make a fresh attempt on the Sunday night, and made every preparation for that purpose. Between one and two o'clock on Monday morning I set about this business, but was prevented by the vigilance of the watch raised by the inhabitants of the city, to patrol the streets, which obliged me to decline anything further that night. I made several fresh attempts the Monday and Tuesday nights following, but the patrol were too vigilant to allow me time to proceed. I therefore left Bristol, finding it impossible to complete my design.

"I now determined to make the best of my way to Paris, to acquaint Mr. Deane with my success, and I reached Calne, where observing a haberdasher's shop, kept by one Mr. Lowe, I broke it open, and stole therefrom twenty pounds, some muslin, &c. It was to this little town that Mr. Lowe, whose shop I had broken open, and Mr. Dalby, keeper of Andover Bridewell, had both traced me. Mr. Lowe had got a description of my person from his wife, who observed me take particular notice of the shop, and concluded the next day that I had committed the burglary. Mr. Dalby had heard of my going through Andover, and finding I answered the description of the person advertised in the papers for set-

ting fire to Portsmouth Dock, he set out in pursuit of me, and took me at this town, in whose custody Mr. Lowe found me on his arrival shortly after. I was taken before the Hon. Sir H. P. St. John, Knt., who committed me to Odiham Bridewell on suspicion of breaking open Mr. Lowe's house; but Government having notice of my being in custody ordered me to the New Prison, Clerkenwell, to be examined before Sir John Fielding, relative to the fire at Portsmouth. Nothing appearing sufficiently strong against me to prove guilt in this particular, I was remanded back to New Prison, in order to be conveyed to Salisbury to take my trial for breaking open Mr. Lowe's house; but my being decoyed into the trap set for me by Mr. Baldwin, to whom I disclosed the whole of my proceedings against Government, has brought me a death which the enormity of my crime deserves; but which, through sincere repentance, I hope will be forgiven as I forgive Mr. Baldwin and all the world.—James Aitken."

A debate in Parliament on the subject of Jack the Painter and his offences led to a speech by Sir William Meredith against capital punishments, which was so remarkable for being uttered at that terrible penal period of our criminal jurisprudence, that I cannot refrain from inserting the whole of it here. The occasion was this:—On the 13th of May, 1777, the House of Commons sat in committee on a bill for the better securing and preserving the dockyards, magazines, ships, vessels, stores, warehouses, goods, and merchandizes, being the property of private persons within this kingdom.

Sir Charles Bunbury, M.P. for Suffolk, moved to the effect, that persons found guilty of offences against which the bill provided should not be punished with death.

Mr. Combe, of Earns Hill, Somerset, M.P. for Aldborough, Suffolk, thereupon thus expressed himself:—

"Whoever reads your statute book and sees how many crimes are punished with death, which are much less heinous than burning of ships, I am surprised any gentleman should it think not high time to put to death such dangerous and wicked incendiaries. It is true John the Painter was hanged for burning Portsmouth Dock, because there is an Act of Parliament that makes it death to burn royal docks: but there is no Act of Parliament to hang men for burning merchants' ships or warehouses; and if John the Painter had burned all the ships and warehouses in Bristol, he would not have been hanged. And I think the example of death full as proper in one case as the other."

The Right Hon. Sir Wm. Meredith, M.P. for Liverpool, thus eloquently replied to Mr. Combe:—

"I agree with my hon. friend that no greater crime can be committed than the wilfully setting fire to merchants' ships, which may endanger not only lives and properties, but public safety. I should think this crime above all others fit to be punished with death, if I could suppose the infliction of death at all useful in the prevention of crimes. But, in subjects of this nature, we are to consider not what the individual is nor what he may have done, we are to consider only what is right for public example and private safety. Whether hanging ever did or can answer any good purpose, I doubt; but

the cruel exhibition of every execution day is a proof that hanging carries no terror with it; and I am confident that every new sanguinary law operates as an encouragement to commit capital offences; for it is not the mode but the certainty of punishment that creates terror. What men know they must endure, they fear; but what they think they can escape, they despise. The multiplicity of our hanging laws has produced these two things, frequency of condemnation and frequency of pardons. As hope is the first and great spring of action, if it was so, that out of twenty convicts only one was to be pardoned, the thief would say, "Why may not I be that one?' But since, as our laws are actually administered, not one in five is executed, the thief acts on the chance of five to one in his favour; he acts on a fair and reasonable presumption of indemnity: and I verily believe that the confident hope of indemnity is the cause of nineteen in twenty of the robberies that are committed. But if we look to the executions themselves, what example do they give? The thief dies either hardened or penitent. We are not to consider such reflections as occur to reasonable and good men, but such impressions as are made on the thoughtless, the desperate, and the wicked. These men look on the hardened villain with envy and admiration. All that animation and contempt of death with which heroes and martyrs inspire good men in a good cause, the abandoned villain feels in seeing a desperado, like himself, meet death with intrepidity. The penitent thief, on the other hand, often makes the sober villain think this way. Himself oppressed with poverty and want, he sees a man die with

that penitence which promised pardon for his sins here and happiness hereafter: that he thinks, that by robbery, forgery, or murder, he can relieve all his wants; and if he be brought to justice the punishment will be short and trifling, and the reward eternal. Even in crimes which are seldom or never pardoned, death is no prevention. Housebreakers, forgers, and coiners, are sure to be hanged; yet housebreaking, forging, and coining, are the very crimes which are oftenest committed. Strange it is, that, in the case of blood, of which we ought to be most tender, we should still go on against reason and against experience, to make unavailing slaughter of our fellow creatures! A recent event has proved that policy will do what blood cannot do: I mean the late regulation of the coinage. Thirty years together men were continually hanged for coining; still it went on, but, on the new regulation of the gold coin, ceased. This event proves these two things: the efficacy of police and the inefficacy of hanging. But is it not very extraordinary that, since the regulation of the gold coin, an Act has passed making it treason to coin silver? But has it stopped the coining of silver? On the contrary, do not you hear of it more than ever? It seems as if the law and the crime bore the same date. I do not know what the hon. member thinks who brought in the bill; but perhaps some feelings may come across his own mind when he sees how many lives he is taking away for no purpose. Had it been fairly stated and specifically pointed out what the mischief in coining silver in the utmost extent is, that hanging bill might not have been so readily adopted: under the name of

treason it found an easy passage. I, indeed, have always understood treason to be nothing less than some act or conspiracy against the life or honour of the king and the safety of the state; but what the king or state can suffer by my taking now and then a bad sixpence or a bad shilling I cannot imagine. By this nickname of treason, however, there lies at this moment in Newgate, under sentence to be burnt alive, a girl just turned of fourteen. At her master's bidding she hid some white-washed farthings behind her stays; on which the jury found her guilty as an accomplice with her master in the treason. The master was hanged last Wednesday, and the fagots all lay ready—no reprieve came till just as the cart was setting out—and the girl would have been burnt alive on the same day had it not been for the humane but casual interference of Lord Weymouth. Good God! Sir, are we taught to execrate the fires at Smithfield, and are we lighting them now to burn a poor harmless child for hiding a whitewashed farthing? And yet this barbarous sentence, which ought to make men shudder at the thought of shedding blood for such trivial causes, is brought as a reason for more hanging and burning. It was recommended to me not many days ago to bring in a bill to make it treason to coin copper as well as gold and silver. Yet in the formation of these sanguinary laws humanity, religion and policy are thrown out of the question. This one wise argument is always sufficient. If you hang for one fault, why not for another? If for stealing a sheep, why not a cow or a horse; if for a shilling, why not for a handkerchief worth eighteen pence; and so on? We therefore ought to

oppose the increase of these new laws; the more, because every fresh one begets twenty others.

"When a member of Parliament brings in a new hanging law, he begins with mentioning some injury that may be done to private property, for which a man is not yet liable to be hanged, and then proposes the gallows as the specific infallible means of cure and prevention; but the bill in its progress often makes crimes capital that scarce deserve whipping. For instance, the shoplifting act was to prevent bankers and silversmiths, and other shops where there are commonly goods of great value, from being robbed; but it goes so far as to make it death to lift anything off a counter with an intent to steal. Under this act, Mary Jones was executed, whose case I shall just mention. It was at the time when press warrants were issued on the alarm about Falkland's Islands. The woman's husband was pressed, their goods seized for some debts of his, and she, with two small children, turned into the streets a-begging. 'Tis a circumstance not to be forgotten that she was very young (under nineteen), and most remarkably handsome. She went to a linendraper's shop, took some coarse linen off the counter, and slipped it under her cloak; the shopman saw her, and she laid it down. For this she was hanged. Her defence was (I have the trial in my pocket), 'That she had lived in credit, and wanted for nothing, till a press-gang came and stole her husband from her; but, since then, she had no bed to lie on, nothing to give her children to eat, and they were almost naked; and perhaps she might have done something wrong, for she hardly knew what she did.' The parish officers testified the truth of this story; but it

seems there had been a good deal of shoplifting about Ludgate; an example was thought necessary, and this woman was hanged for the comfort and satisfaction of some shopkeepers in Ludgate Street. When brought to receive sentence, she behaved in such a frantic manner, as proved her mind to be in a distracted and desponding state; and the child was sucking at her breast when she set out for Tyburn.

"Let us reflect a little on this woman's fate. The poet says:—

"'An honest man's the noblest work of God.'

He might have said, with equal truth, that

"'A beauteous woman's the noblest work of God.'

"But for what cause was God's creation robbed of this its noblest work? It was for no injury, but for a mere attempt to clothe two naked children by unlawful means. Compare this with what the State did, and what the law did. The State bereaved the woman of her husband, and the children of a father, who was all their support; the law deprived the woman of her life, and the children of their remaining parent, exposing them to every danger, insult, and merciless treatment that destitute and helpless orphans suffer. Take all the circumstances together, I do not believe that a fouler murder was ever committed against law than the murder of this woman by law. Some who hear me are perhaps blaming the judges, the jury, and the hangman; but neither judge, jury, nor hangman are to blame; they are but ministerial agents. The true hangman is the member of Parliament; he who frames the bloody laws is answerable for all the blood that is shed under it.

But there is a further consideration still. Dying as these unhappy wretches often do, who knows what their future lot may be? Perhaps my honourable friend who moves this bill has not yet considered himself in the light of an executioner. No man has more humanity, no man a stronger sense of religion than himself: and I verily believe that at this moment he wishes as little success to his hanging law as I do. His nature must recoil at making himself the cause, not only of shedding the blood, but perhaps destroying the soul of his fellow-creature.

"But the wretches who die are not the only sufferers; there are more and greater objects still: I mean the surviving relations and friends. Who knows how many innocent children we may be dooming to ignominy and wretchedness? Who knows how many widows' hearts we may break with grief, how many grey hairs of parents we may bring with sorrow to the grave?

"The Mosaic law ordained that for a sheep or an ox four or five-fold should be restored; and for robbing a house, double;—that is, one fold for reparation, the rest for example; and the forfeiture was greater, as the property was more exposed. If the thief came by night, it was lawful to kill him; but if he came by day, he was only to make restitution; and if he had nothing, he was to be sold for his theft. This is all that God required in felonies; nor can I find in history any sample of such laws as ours, except a code that was framed at Athens by Draco. He made every offence capital, upon this modern way of reasoning:—'That petty crimes deserved death, and he knew nothing worse for the greatest.' His laws, it is said, were not written with ink, but with

blood; but they were of short duration, being all repealed by Solon, except one for murder.

"An attempt was made some years ago by my honourable friend, Sir Charles Bunbury, to repeal some of the most absurd and cruel of our capital laws. The bill passed this House, but was rejected by the Lords for this reason: 'It was an innovation,' they said, 'and subversion of law.' The very reverse is the truth. The hanging laws are themselves innovations. No less than three-and-thirty of them passed during the last reign. I believed I myself was the first person who checked the progress of them. When the great Alfred came to the throne, he found the kingdom overrun with robbers; but the silly expedient of hanging never came into his head. He instituted a police, which was to make every township answerable for the felonies committed in it. Thus property became the guardian of property; and all robbery was so effectually stopped, that (the historians tell us) in a very short time any man might travel through the kingdom unarmed with his purse in his hand.

"Treason, murder, rape, and burning a dwelling-house were all the crimes that were liable to be punished with death by our good old common law; and such was the tenderness, such the reluctance to shed blood, that if recompense could possibly be made, life was not to be touched. Treason being against the King, the remission of that crime was in the Crown. In case of murder itself, if compensation could be made, the next of kin might discharge the prosecution, which, if once discharged, could never be revived. If a ravisher could make the injured woman satisfaction, the law had no

power over him; she might marry the man under the gallows if she pleased, and take him from the jaws of death to the lips of matrimony. But so fatally are we deviated from the benignity of our ancient laws, that there is now under sentence of death an unfortunate clergyman,* who made satisfaction for the injury he attempted; the satisfaction was accepted, and yet the acceptance of the satisfaction and the prosecution bear the same date.

"There does not occur to my thoughts a proposition more abhorrent from nature and from reason than that, in a matter of property, when restitution is made, blood should still be required. But in regard to our whole system of criminal law, and much more to our habits of thinking and reasoning upon it, there is a sentence of the great Roman orator which I wish those who hear me to remark, exhorting the Senate to put a stop to executions. He says:—*'Nolite, Quirites, hanc sævitiam diutius pati, quæ non modo tot cives atrocissimè sustulit, sed humanitatem ipsam ademit consuetudine incommodorum.'*

"Having said so much on the general principles of our criminal laws, I have only a short word or two to add on the two propositions now before us: one, as moved by the honourable gentleman (Mr. Combe) to hang persons that wilfully set fire to ships; the other, moved as an amendment by my honourable friend (Sir Charles Bunbury), is to send such offenders to work seven years on the Thames.

"The question arises from the alarming events of the

* Dr. Dodd.

late fires at Portsmouth and Bristol, for which the incendiary is put to death. But will an act of Parliament prevent such men as Jack the Painter from coming into the world, or control them when they are in it? You might as well bring in a bill to prevent the appearance or regulate the motions of a comet. John the Painter was so far from fearing death, that he courted it; was so far from concealing his act, that he told full as much as was true, to his own conviction. When once a villain turns enthusiast, he is above all law; punishment is his reward, and death his glory. But, though this law will be useless against villains, it is dangerous and may be fatal to many an innocent person. There is not an honest industrious carpenter or sailor who may not be endangered in the course of his daily labour. They are constantly using fire and combustible matter about shipping, tarring and pitching and caulking. Accidents are continually happening; and who knows how many of those accidents may be attributed to design? Indeed, the act says the firing must be done *wilfully and maliciously*, but judges and juries do not always distinguish rightly between the fact and the intention. It is the province of a jury only to try the fact by the intention; but they are too apt to judge of the intention by the fact. Justices of the peace, however, are not famed for accurate and nice distinctions; and all the horrors of an ignominious death would be too much to threaten every honest shipwright with for what may happen in the necessary work of his calling.

"But, as I think punishment necessary for so heinous an offence, and as the end of all punishment is example,

of the two modes of punishment I shall prefer that which is most profitable in point of example. Allowing, then, the punishment of death its utmost force, it is only short and momentary; that of labour permanent; and so much example is gained in him who is reserved for labour more than in him who is put to death, as there are hours in the life of the one beyond the short moment of the other's death."

Mr. Henry Dundas, M.P. for Edinburgh, Lord Advocate, here spoke against the motion.

The bill was ordered to be reported, but it dropped.

The present law with regard to the burning in docks is this:—By the 24th and 25th Vic., c. 97, sec. 4, whosoever shall unlawfully and maliciously set fire to any station, engine-house, warehouse, or other building belonging or appertaining to any railway, port, dock, or harbour, or to any canal or other navigation, shall be guilty of felony, and liable to penal servitude for life, or not less than three years, or to imprisonment not exceeding two years, with or without hard labour and solitary confinement; and if a male under sixteen years, with or without whipping.

By the Act for the Government of the Navy, the 24th and 25th Vic., c. 115, article 30, every person subject to this act who shall unlawfully set fire to any dockyard, victualling-yard, or steam-factory yard, arsenal, magazine, building, stores, or to any ship, vessel, hoy, barge, boat, or other craft, or furniture thereunto belonging, not being the property of an enemy, pirate, or rebel, shall suffer death, or such other punishment as is hereinafter (in the act) mentioned.

THE TRIAL OF ADMIRAL KEPPEL.

The trial of Admiral Byng, and, in a less flagrant degree, that of Lord George Sackville, had revealed the existence of a mode of prosecution fraught with danger in the hands of a weak or malignant administration. The means thus invented, were to throw upon the commander of an expedition which, from some cause over which he had no control, and possibly from the fault of Government itself, did not succeed, all the blame and penalty of the failure. Unlike the noble and friendly reception which Rome, in the days of its great and glorious contest with Carthage, gave to the defeated consul Terentius Varro, because he had not despaired of the Commonwealth;—a British general or admiral, however distinguished on other occasions, was to be met, on his return from any mischance, with opprobrium, criminal prosecution, and probably death. Fortunately for the constitutional character of England, and the dignity and independence of its military and naval service, this plan, when attempted for the third time, utterly and signally failed. Admiral Keppel was, indeed, not the man for such an attack, nor was the time of it suitable either. His own credit as a commander and a man of sterling worth, and his popularity, stood on the very

firmest basis; and he belonged to the influential Whig party, which was then rising fast into power over a ministry as rapidly sinking under the disasters of the American War. Poor Byng had but his merit to protect him, and he perished; a better chance let Lord George Sackville off with his bare life; but Keppel had the public around him, and had not only the people in his favour, but also a giant band of personal friends. With such protectors as Rockingham, Burke, Fox and Sheridan, persecution might do its worst: he was invulnerable. The only thing to wonder at now is, the madness of a Government which could participate in such a prosecution against him. His trial is really a somewhat dull affair, as much from the certainty of his acquittal as from the prolixity of the details; yet it must be ever read with the deepest interest by all who advocate the free action and the fair latitude that should be allowed to every man who has to command the army or the navy of the British empire.

Before entering into the trial itself, it may be as well to give a short biographical sketch of the previous career of Admiral Keppel.

The Rt. Hon. Augustus Keppel, Viscount Keppel, of Elvedon, in the county of Suffolk, P.C., an admiral of Great Britain, and for some time First Lord of the Admiralty, one of the pre-eminent seamen of our naval history, was, like the unfortunate Admiral Byng, of aristocratic birth and descent: he was the second son of Sir William Anne* Keppel, K.G., second Earl of

* Queen Anne had stood for this peer, in person, as his godmother, and hence his second Christian name of Anne.

Albemarle, by his wife Anne, daughter of Sir Charles Lennox, K.G., first Duke of Richmond; and was the grandson of the famous friend and companion-in-arms of William III., Arnold-Joost Van Keppel, Lord of Voorst, whose aid to William in his acquisition of the throne at the Revolution was rewarded with the earldom of Albemarle, and other minor titles in the peerage of Great Britain. Augustus Keppel, the future admiral, was born on the 2nd of April, 1725, and entered the royal navy when thirteen years of age. He was a midshipman on board Commodore Anson's ship, the *Centurion*, in his voyage round the world, in 1740. Of the dangers, distresses, and advantages of that celebrated expedition, he therefore had his share: in particular, at the taking of Paita, by Lieutenant (afterwards Admiral Sir Peircy) Brett. In 1741 he had a very narrow escape; for, having on a jockey cap, one side of the peak was shaved off close to his temple by a ball, which, however, did him no other injury. Having been appointed, while still in his teens, in the course of that voyage, a lieutenant, he, soon after his return, in February, 1745, took post rank as captain of the *Maidstone*, 40, and was very successful in capturing several French privateers; but on July 7, 1747, as he was giving chase to one, running too near shore on the coast of France, near Nantes, his ship was unfortunately lost: himself and crew were saved. Keppel's picture, admirably painted by his friend, Sir Joshua Reynolds, represents him as just escaped from that shipwreck. Being soon exchanged, and returning to England in 1747, he was one of the court-martial on the trial of Captain Fox, of the *Kent*, who, for misbeha-

viour in the action under Admiral Hawke, was dismissed the service. After the peace in August, 1749, Captain Keppel sailed with a squadron, as commodore, to Algiers, to demand satisfaction or restitution for the treasure piratically taken out of the *Prince Frederick* packet boat; and the matter was brought to a satisfactory and amicable conclusion. But another act of piracy, in the succeeding year, led him again to Algiers: he had a second audience of the Dey, and exhorted him to consider, that a great king, like His Britannic Majesty, was not accustomed to demand satisfaction in vain; to which the Dey made a defiant and spirited reply; but eventually concluded the business in friendly terms. In 1752, Commodore Keppel ably effected treaties with the States of Tripoli and Tunis, and returned with credit from the Mediterranean.

In 1755, he sailed as commodore in the *Centurion*, for Virginia, having on board General Braddock, and under his convoy a fleet of transports, with 2,000 troops, to drive the French from their encroachments on the Ohio. The event of that expedition, as is well known, was unfortunate, and would have been more so, but for the co-operation of Keppel. During his absence he was elected to Parliament for the city of Chichester, in the room of his brother, who had succeeded to the earldom of Albemarle at his father's death. In January, 1757, Keppel was the junior member of the memorable court-martial, at Portsmouth, which tried Admiral Byng; and (for the law gave him no alternative) he was obliged to concur in the sentence which adjudged the admiral to be shot to death. He, however, strenuously endeavoured

to save him; and in his place in the Commons, applied to the House on behalf of himself, and several other members of the court-martial, praying the aid of Parliament to be released from the oath of secrecy imposed on courts-martial, in order to disclose the grounds on which that sentence was passed. The obvious intent of this leave to disclose, was to allow the members of the court-martial to openly comment on and protest against the monstrosity of a law which compelled them to an award of death for an error in judgment; and thus might they avert its effects. The Commons listened to the prayer; the sentence was for the moment respited, and a bill passed the House to release the members of the court-martial from the obligation of the oath of secrecy. But the upper House was less merciful; after examining the several members of the court-martial, the Lords unanimously rejected the bill. To the third question, among those, which the Lords put to the members of the court-martial on that occasion, viz., the question,—"Whether you are desirous the present bill should pass?"—Keppel, with Rear Admiral Norris, and Captain (afterwards Sir John) Moore, answered in the affirmative; and to the fourth question,—"Whether you are of opinion that you have any particulars to reveal relative to the case of, and the sentence passed upon, Admiral Byng, which you judge necessary for His Majesty's information, and which you think likely to incline His Majesty to mercy,"—Keppel replied, "I think that I cannot answer that question without particularising the reasons for my vote and opinion." The House, by not passing the bill, would not allow

him to do so, and the shameful sentence was, despite of his humane endeavour, carried into execution. Commodore Keppel, in 1758, sailed from Spithead with a squadron and land forces, on an expedition against the French settlements at Goree, on the coast of Africa, which he reduced by a vigorous attack. In Hawke's memorable naval victory over the French armament under Conflans, Captain Keppel, in the *Torbay*, had a brilliant share; he sunk the enemy's ship, *Thésée*, of equal force to his own vessel, at the second broadside. Again, while in command of the *Valiant*, he victoriously served under Sir Edward Hawke in Quiberon Bay. In October following, just before King George II.'s death, he was appointed to command the fleet on an intended expedition, in which General Kingsley was to command the troops; and His Majesty saw a battalion of the foot guards march by Kensington Palace for that purpose two days only before his death. The royal demise occasioned a suspension of the expedition. In 1761, Commodore Keppel commanded the British fleet at the celebrated reduction of Belleisle; and in 1762, he contributed greatly to the reduction of the *Havannah*, being second in command under Sir George Pocock, who said, "that Keppel executed the service under his direction with the greatest spirit, activity, and diligence." In 1763, he was a Lord of the Admiralty; in 1765, he was appointed rear, and in 1770 vice, admiral of the blue. Keppel had thus risen to the very highest repute, and deservedly so. He was a man of cultivated mind and generous soul, and was a thorough British sailor,—brave, prudent, energetic, and indefatigable. His frankness, affability and good humour, won him the unbounded

love of the seamen, who gave him the affectionate and familiar title of "Jack's protector." It was in the very midst of this credit and popularity that the Government of the day—the disastrous administration of Lord North—sought to re-enact against Keppel the tragedy of Admiral Byng. The occasion was this:—

The court of France having, in February, 1778, acknowledged the independence of America, proceeded to make an open avowal of the hostile sentiments they had long entertained against England, by detaining all British ships to be found in the French ports. Orders were, in consequence, given by the British ministry to fit out a fleet of twenty sail of the line with the utmost expedition; the command of which was offered to Admiral Keppel. As the ministry had, in a great measure, lost the confidence of the country, the eyes of the whole nation were turned on Keppel, in whose appointment every one seemed to feel his own security included. On this occasion, therefore, he had a great deal to risk. His well-earned fame was now to be staked on the doubtful issue of a single battle. The part he had taken in politics, and the close friendship in which he lived with the leading members of the opposition, augmented these difficulties, and even rendered the command that was offered him extremely hazardous; for the ministers were his political enemies, and political hostility at this time was carried to a very great height. Any failure, therefore, whether proceeding from unavoidable accident, or those misfortunes which the wisest and bravest cannot repel, might attach censure on him, and be attended with disagreeable, if not with dangerous, consequences.

A due consideration of all these incidental difficulties made him hesitate in accepting an appointment so pregnant with danger from the hands of ministers; but in consequence of a royal message delivered to him through the first lord of the admiralty, he attended in the closet to receive the commands of his sovereign; and in that and the subsequent royal audiences, he delivered himself with that plainness, candour, and sincerity, which so strongly marked his character. He particularly took the liberty of observing, that he served in obedience to His Majesty's commands, that he was unacquainted with his ministers *as ministers*, and that he took the command as it was, without making any difficulty, and without asking a single favour, trusting only to His Majesty's good intentions, and to his generous support and protection. Keppel sailed from St. Helen's on the 13th of June, 1778, with a naval force and with unlimited discretionary powers. But this force was of no more than twenty sail of the line, many of which were in a bad state of equipment, and was extremely inadequate for the important service which was entrusted to him. On the one hand, it was well known that France had a large fleet at Brest ready for sea; and, on the other, the great commercial fleets of England were on their passage home from the East and West Indies. Besides, the defence of these fleets, he had to protect the extensive coast of Great Britain, together with those invaluable reservoirs of her naval power, in which were equally included her present strength and her future hope.

After much mature consideration, Keppel finally resolved to yield everything to what he conceived to be a

faithful discharge of the great trust reposed in him. He wisely thought that the only fleet which was then prepared to protect the commerce and the coast of his country, ought not to be hazarded against vast odds, either upon personal or professional punctilio. His conquest over the feelings of pride, was so extremely difficult, that he afterwards declared, "he never in his life felt so deep a melancholy, as on finding himself even for the moment obliged to turn his back on France; and that his courage was never put to such a trial as in that retreat; but that it was his firm persuasion his country was saved by it." The fleet returned to Portsmouth on the 27th of June, and being joined by such ships as were ready, the admiral sailed again on the 9th of July, with twenty-four sail of the line, and two days afterwards was joined by six more. In all, therefore, he had now thirty sail of the line, four frigates, and two fire-ships. The day before Keppel's departure from Portsmouth, the great French fleet, amounting to thirty-two sail of the line, and a vast number of frigates, sailed from Brest, under the command of the Count d'Orvilliers.

The actual encounter with the French cannot be better described than in the narrative of it given by Mr. C. D. Yonge, in his "History of the British Navy:" he writes thus:—

"On the 9th of July, 1778, Keppel again put to sea with a splendid fleet of thirty sail of the line and four frigates. With him were the Vice-Admirals Sir Hugh Palliser, Bart. (a Lord of the Admiralty at the time), and Sir Robert Harland, Bart.; and, among his captains were, John Jervis, of the *Foudroyant*, 80 (after-

wards Earl St. Vincent), and in the *Robust*, 74, Captain Alexander Hood, afterwards Viscount Bridport. The French fleet had quitted Brest the day before; the commander-in-chief was the Comte d'Orvilliers; and among the subordinate admirals was a prince of the royal blood, the Duc de Chartres, subsequently known as that Duc d'Orleans who voted for the murder of his relation and king, the hapless Louis XVI. The Duc de Chartres was one of the vilest of cowards;* and being also given, as such people sometimes are, to boasting of the exploits he intended to perform, he had lately announced to Admiral Sir George Rodney, at Paris, his appointment to a command in the fleet which was to combat Keppel. Rodney predicted that the result of the meeting would be that His Royal Highness would be conducted to England to learn English; but he and his commander did their best to defeat the prophecy by avoiding the battle for which he had professed so much eagerness.

"Before he regained his old station off Brest, Keppel learnt that the French were at sea; and accordingly he kept off the land to search for them. The weather was so hazy that the two fleets nearly passed one another unconsciously; but on the afternoon of the 23rd the fog suddenly cleared off, and, to the surprise of both, they found themselves within a few miles of each other, some leagues to the west of Ushant. D'Orvilliers had probably been ignorant of Keppel's return to England for

* It should be here in fairness mentioned, that Mr. Yonge somewhat errs as to the Duke of Chartres, who, bad as he was in other respects, (he was the citizen Egalité of the Revolution), had not the character of a coward: he, at any rate, behaved with marked courage on this occasion.

reinforcements. At all events, he believed him to be far weaker than he really was, and at first showed every inclination to fight; but when, on approaching nearer, he ascertained the real strength of the British fleet, he showed that he had no idea of engaging on equal terms. He resolved to decline the battle; and his possession of the weather-gauge enabled him to do so. His conduct was a practical acknowledgment of the inferiority of French to British sailors; for more equal fleets could not be found. The French line-of-battle ships exceeded the English in number by two; but the English ships were rather the larger; and the English had two thousand two hundred and seventy-eight guns, to two thousand two hundred and seventy-six, that composed the armament of the French. In frigates, D'Orvilliers had a decided advantage; but however useful they might be before or after the battle, in the actual conflict they were not likely to have much weight. A fairer opportunity of testing the naval merits of the two nations could not be imagined. D'Orvilliers, however, kept away, and the next day was seen moving off in full retreat. Keppel, signalling to his fleet to form in line of battle, and to chase, pursued with every sail his ships could carry; and, as two of the Frenchmen had fallen to leeward, he endeavoured to cut them off, in the hope of thus forcing his antagonist to a battle in order to save them. D'Orvilliers thought more of saving himself, and left the stragglers to their fate: their speed enabled them to escape, but they were unable to rejoin their comrades. The 24th, the 25th, the 26th, passed without any variation of the circumstances or relative positions of the two

fleets. The French continued their retreat; we continued our pursuit. In the afternoon of the 26th, Keppel, thinking he was losing time by keeping his fleet in line of battle, hauled down that signal which had been constantly flying from the time he first saw the enemy, but still he kept up the signal to continue the chase.

"The French ships, however, as has been mentioned before, were generally superior to ours in sailing qualities, so that the chase would in all probability have been entirely fruitless, had not the wind suddenly shifted on the morning of the 27th from south-west to west-south-west; and, though this does not appear a very great change, it was sufficient to prevent the French admiral from any longer having the entire option of engaging in or avoiding a battle. It put in Keppel's power to force on at least a partial action, and he instantly availed himself of the chance thus unexpectedly afforded him; but he found himself in some difficulty. The eagerness with which he had hitherto pressed on the chase had somewhat scattered his fleet. Harland was four miles off, on the *Victory's* weather quarter; Palliser, in the *Formidable*, was three miles or more to leeward, and as the way in which he handled his ship seemed to show a disposition to increase that distance, Keppel, desiring to unite his squadron to his own, signalled to Palliser to chase to windward. Finding an action inevitable, D'Orvilliers, to preserve his line of battle unbroken, caused his fleet to wear; but that and some other evolutions threw them into great disorder, and brought them nearer to the enemy whom their chief object was to avoid. These manœuvres had

occupied nearly four hours. At last, a little before noon, Keppel made the signal to attack, and Sir Robert Harland, who commanded the van division, led the fleet gallantly into battle, passing along the French line, receiving their fire without returning it till he came up to their leading ships. Keppel followed with the centre, in like manner reserving his fire till he got alongside the French admiral himself, whom he had marked for his own especial antagonist, and was soon joined by Palliser and his squadron. For nearly two hours both fleets were hotly engaged. The loss of life was lightest in ours; but, from the French practice of aiming chiefly at the rigging, many of our ships were far more crippled than any of theirs. Keppel's own flag-ship, the *Victory*, had received great damage; and five more of our ships were so much disabled that the admiral was not altogether without apprehension of losing some of them. Palliser's ship, the *Formidable*, had suffered as severely as any, and Sir Hugh had been the first to quit the line. When the battle had lasted nearly two hours, with a view of enabling him to renew the action, and also of protecting the crippled ships, Keppel made the signal to wear. Harland and his division obeyed; but Palliser took no notice of the signal, making no attempt to renew the action himself, and, as was afterwards alleged, by his example preventing the rest from going to the admiral's support. Later in the afternoon, Keppel sent a frigate to him with an express order to bear down; but the sun went down, and it was not till daylight the next morning that the *Formidable* again took up the station assigned

for her. But long before daylight all hope of renewing the battle was past. The lights of the enemy had been visible to our men all night; but, when day broke, it was discovered that they proceeded from only three ships. D'Orvilliers had stolen away with his main body, and, to prevent any suspicion of his flight from occurring to the British admiral, he had left three of his fastest sailers to keep up the same lights that were shown by the flag-ship, with instructions to set all sail and rejoin him as soon as daylight should reveal to the English the delusion that had been practised. Once more Keppel chased for an hour or two, and then, finding his efforts to overtake the enemy perfectly fruitless, he returned to Plymouth to repair the damage he had received.

"No ship was taken on either side, the number of our killed and wounded did not amount to above three-fourths of the loss sustained by the French; but the question of who were the victors was most clearly determined by a proof far more incontestable than any such minute calculation. The flight of the French, for their course on the 28th can be called by no other name, acknowledged their defeat in the most forcible manner. But, after having made such efforts to fit out a sufficient fleet, the British nation was not contented with a victory which required arithmetic and logic to prove it to have been one. Murmurs soon began to be heard, which presently assumed the definite shape of complaints that Palliser, by his disobedience to his commander's signals, had prevented the renewal of the action, and by so doing had enabled

the French to escape. In his official despatch Keppel was so far from having complained of Palliser's behaviour, that he expressly named him as, "by his spirited conduct, having deserved much commendation."

Before proceeding further, however, it should be here stated in fairness to the Count D'Orvilliers, (whom Keppel himself, in his defence, does not blame,) that Mr. Yonge seems to have taken rather a severe and incorrect view of the Count's conduct in evading an engagement: D'Orvilliers, on the contrary, had great reasons for avoiding a battle, and his retreat was really a success. Another writer, the author of an excellent "British Naval Biography," to whom I am much indebted in this article, puts the point very clearly, thus:

"It must not be attributed to any want of spirit in D'Orvilliers that he thus obstinately declined a battle. The motives of both commanders exactly corresponded with the different lines of conduct they pursued. Our East and West India convoys, of immense value, were on their return home, and hourly expected. The position maintained by the French fleet was extremely favourable for intercepting those convoys in the course they were expected to hold; and from the situation of the hostile fleets, and the state of the wind, they might have been captured in the English admiral's sight, without a possibility of his preventing it. On the other hand, Keppel's fleet effectually cut off that of his adversary from the port of Brest. It was, therefore, no less the object of Keppel to bring the enemy to an immediate action, than it was that of D'Orvilliers to avoid it."

It was so, in fact, understood by the British public, who felt, at once, that the French had gained a great advantage, and that this action of July, 1778, had not been of that bold and decisive character which the country was used to expect from the navy.* The event gave rise to much animadversion, and at last was discussed by the newspapers and periodicals of the day with furious animosity. Party feeling embittered the question; for though Admiral Keppel was employed on account of his ability and experience, he was hostile to the then administration, so that any attempt to dis-

* M. F. Feuillet de Conches, in his recently published correspondence of Louis XVI., Marie-Antoinette and the Princess Elizabeth,—a very interesting work—gives a curious letter on the subject of Keppel's engagement from the pen of the Princess Elizabeth, who was Louis XVI.'s sister, and the admirable lady whose martyrdom was decidedly the foulest act among the foul acts of the Reign of Terror. The princess is writing in or near August, 1778, to her devoted friend Madame de Bombelles, and the letter is as follows:—"Je n'ai que le temps, mon ange, de vous dire qu'il y a eu une affaire entre les deux flottes; que le premier choc a été très-vif, qu'ensuite elles se sont séparées, et que la nôtre s'est avancée pour un second, mais que les Anglais se sont retirés. On dit que l'on a remarqué que le vaisseau de l'Amiral Keppel se battait fort bien, mais que tout d'un coup il y a eu une grande évolution, qu'il a cessé de se défendre et s'est retiré. Huit ou dix bâtiments l'ont accompagné, ce qui fait croire que l'amiral est ou très-blessé ou tué. Il y a dix vaisseaux fort endommagés, et nous, nous n'en avons que deux qui seront en état de repartir dans huit jours. Le Duc de Chartres revient passer deux à trois jours ici. M. Du Chaffault est très-dangereusement blessé. Je m'affermis encore plus dans ce que je vous ai dit la dernière fois. J'attends votre réponse avec impatience pour me décider sur ce que je dois faire. Ne dites point la nouvelle de l'Amiral Keppel, parce qu'elle n'est pas sûre. Je vous embrasse de tout mon cœur.

ELIZABETH MARIE."

parage him was attributed to the malevolence of the government.

In the House of Commons, of which both Admirals Keppel and Palliser were members, a motion was made for an inquiry, whereupon Admiral Keppel rose, and gave an account of his conduct from the time he assumed the command of the fleet. He declared, "That if he was again to go over the business of the 27th of July, he would conduct himself in the same manner. He said, everything he could do against the enemy had been done; but observed, at the same time, that the oldest and most experienced officers would discover something in every engagement, with which they were previously unacquainted; and he acknowledged that that day had presented something new to him." Sir Hugh Palliser defended himself with much warmth, and accused Keppel of inconsistency in having officially commended his conduct, and in now wishing to insinuate that he had neglected to perform his duty. To this the admiral replied, "That the official praise which he had bestowed on all the officers under his command, to obviate discord, did not oblige him to authenticate statements which would impeach himself; but now, when called upon to speak out, he would inform the House, and the public, that the signal for coming into the *Victory's* wake, was flying from three o'clock in the afternoon till eight in the evening unobeyed; at the same time he did not charge the vice-admiral with actual disobedience, because he was fully persuaded of his personal bravery, and believed that if any inquiry was considered necessary that he would be able to

justify himself." This altercation led to a great deal of mutual recrimination between the two admirals, until at length Sir Hugh Palliser, on the 9th of December, delivered in an accusation to the Board of Admiralty, of which he was himself one of the lord commissioners. This accusation consisted of five separate charges against Keppel, for misconduct and neglect of duty in the action of the 27th of July; and the Board immediately ordered the admiral to be tried by a court-martial.

On the 7th of January, 1779, the signal was made for all the admirals and captains of His Majesty's fleet to come on board the *Britannia* in Portsmouth harbour.

Then the Judge-Advocate General, Sir Charles Gould, LL.D., read the order sent by the Lords of the Admiralty to Sir Thomas Pye, admiral of the white, to hold the court-martial, dated the 31st of December, 1778, signed Sandwich, T. Buller, Lisburne: and for adjourning to the Governor of Portsmouth's house.

The court-martial consisted of the following members:—

President, Sir Thomas Pye, Kt., admiral of the white; Mathew Buckle, vice-admiral of the red; John Montagu, vice-admiral of the red; Mariot Arbuthnot, rear-admiral of the white; Robert Roddam, rear-admiral of the white; Captains Mark Milbank (afterwards an admiral), Francis Samuel Drake (afterwards an admiral and a baronet), Taylor Penny, John Moutray, William Bennet, Adam Duncan (afterwards an admiral and a viscount, the hero of Camperdown), Philip Boteler, and James Cranston.

Pursuant to the Admiralty order, the court adjourned to the house of the Governor of Portsmouth, and there the trial was held.

Keppel appeared before the court attended by a galaxy of friends; among them were some of the most illustrious personages in the kingdom, viz., the Dukes of Cumberland, Richmond, and Bolton; the Marquis of Rockingham, the Earls of Effingham and Albemarle, Edmund Burke, Charles James Fox, and Richard Brinsley Sheridan. Keppel's counsel was Erskine—the Hon. Thomas Erskine, the future Lord Chancellor, then in the first year of his call to the bar, and already becoming famous as an advocate.

The proceedings commenced by the President desiring the Judge-Advocate, Sir Charles Gould, to read the charge, which was as follows:

"A charge of Misconduct and Neglect of Duty against the Honourable Admiral Keppel, on the 27th and 28th of July, 1778, in divers instances undermentioned.

"I. That on the morning of the 27th of July, 1778, having a fleet of thirty ships of the line under his command, and being then in the presence of a French fleet of the like number of ships of the line, the said admiral did not make the necessary preparations for fight, did not put his fleet into a line of battle, or into any order proper either for receiving or attacking an enemy of such force; but, on the contrary, although his fleet was already dispersed and in disorder, he, by making the signal for several ships of the vice-admiral of the blue's division to chase to windward, increased the disorder of that part of the fleet, and the ships were, in conse-

quence, more scattered than they had been before; and whilst in this disorder, he advanced to the enemy, and made the signal for battle.

"That the above conduct was the more unaccountable, as the enemy's fleet was not then in disorder, nor beaten, nor flying, but formed in a regular line of battle, on that tack which approached the British fleet (all their notions plainly indicating a design to give battle), and they edged down and attacked it whilst in disorder. By this unofficer-like conduct a general engagement was not brought on, but the other flag-officers and captains were left to engage without order or regularity, from whence great confusion ensued; some of his ships were prevented getting into action at all, others were not near enough to the enemy, and some from the confusion, fired into others of the king's ships, and did them considerable damage; and the vice-admiral of the blue was left alone to engage singly and unsupported. In these instances the said Admiral Keppel negligently performed the duty imposed upon him.

"II. That after the van and centre divisions of the British fleet passed the rear of the enemy, the admiral did not immediately tack and double upon the enemy with those two divisions, and continue the battle; nor did he collect them together at that time, and keep so near the enemy as to be in readiness to renew the battle as soon as it might be proper; but, on the contrary, he stood away beyond the enemy to a great distance, before he wore to stand towards them again, leaving the vice-admiral of the blue engaged with the enemy, and exposed to be cut off.

III. That after the vice-admiral of the blue had passed the last of the enemy's ships, and immediately wore and laid his own ship's head towards the enemy again, being then in their wake, and at a little distance only, and expecting the admiral to advance with all the ships to renew the fight, the admiral did not advance for that purpose, but shortened sail, hauled down the signal for battle; nor did he at that time, or at any other time, whilst standing towards the enemy, call the ships together, in order to renew the attack, as he might have done; particularly the vice-admiral of the red, and his division, which had received the least damage, had been the longest out of action, were ready and fit to renew it, were then to windward, and could have bore down and fetched any part of the French fleet, if the signal for battle had not been hauled down, or if the said Admiral Keppel had availed himself of the signal appointed by the thirty-first article of the fighting instructions, by which he might have ordered those to lead who are to lead with the starboard tacks on board by a wind, which signal was applicable to the occason for renewing the engagement with advantage after the French fleet had been beaten, their line broken, and in disorder. In these instances he did not do the utmost in his power to tack, sink, burn, or destroy the French fleet that had attacked the British fleet.

" IV. That instead of advancing to renew the engagement, as in the preceding articles is alleged, and as he might and ought to have done, the admiral wore and made sail directly from the enemy, and thus he led the

whole British fleet away from them, which gave them the opportunity to rally unmolested, and to form again into a line of battle, and to stand after the British fleet: this was disgraceful to the British flag, for it had the appearance of a flight, and gave the French admiral a pretence to claim the victory, and to publish to the world that the British fleet ran away, and that he pursued it with the fleet of France, and offered it battle.

"V. That on the morning of the 28th of July, 1778, when it was perceived that only three of the French fleet remained near the British, in the situation the whole had been in the night before, and that the rest were to leeward, at a greater distance, not in a line of battle, but in a heap, the admiral did not cause the fleet to pursue the flying enemy, nor even to chase the three ships that fled after the rest; but, on the contrary, he led the British fleet another way, directly from the enemy.

"By these instances of misconduct and neglect a glorious opportunity was lost of doing a most essential service to the State, and the honour of the British navy was tarnished."

The trial lasted thirty-two days, and the evidence was very extensive and very minute; but, after all was heard, it left the affair much as stated by Mr. Yonge in his account of it. The following incidents from the testimony adduced may be read with interest.

Captain Marshall, of the *Arethusa* frigate, the first witness called, stated in answer to the question, whether Admiral Keppel conducted himself unbecoming a flag-officer; "No, as God is my judge!"

Captain Sir William Chaloner Burnaby, Bart., of the *Milford*, in his evidence, informed the court, that when he first perceived the French fleet, the afternoon of the 23rd, they were to eastward of our fleet, nearly a-head, or rather leeward, standing towards us, and appearing to be in great disorder; that, the *Milford* having received orders from the admiral to reconnoitre the enemy, he made towards them. That at half past four he tacked and stood towards the *Victory*, the French fleet nearly then beginning to form a line a-head, seeming to direct their course to leeward of our fleet, and very little from the wind. About half past eight o'clock the British admiral made signal for the fleet to bring to, and, to the best of his recollection, it continued in that situation all night. Upon further interrogations it appeared from Sir William that the French fleet were all that day forming in line of battle; that on the 25th and 26th the weather was squally, with fresh gales, that occasioned such a north-west swell as is usual with such winds; that they kept the weather-gauge of us all the time, generally observing their line of battle, and rather gained upon our fleet, sometimes carrying a pressing sail, at other times under an easy sail, for the better perfecting their line of battle; and that during all that time, had they been ever so much disposed to attack our fleet, they could not have done it without disadvantage, as they could not, without risk, fight their lee lower-deck guns, whilst we could fight our weather lower-deck guns. Sir William was cross-examined by Admiral Keppel as to the vice-admiral's situation and conduct after the

engagement; when it appeared, that from the natural superiority of the *Victory* over the *Formidable* in sailing, and the damage the latter had sustained, Sir Hugh Palliser could not accompany the admiral; but that he did not see him make any signal of his disability.

In the course of the admiral's questions to Sir William he asked, did I not pursue with a press of sail, conformable to my worst sailing ships, to close and get up, until the moment I brought them to battle, except the two times after the 24th that I made the signal for the line? Sir Hugh objected to this as a leading question.

Admiral Keppel: "I desire I may not be interrupted by the accuser. I am trying for my life, and for my honour, which is dearer, and I hope for the protection of the court." Soon after he said, "I would have fired at the French if they had not fired at me." Sir William Burnaby concluded by saying, Admiral Keppel always pressed sail, and gave every proof of a great desire of bringing the French to battle.

Captain Digby, of the *Ramillies,* was called: Sir Hugh Palliser began to interrogate him with regard to the business of the 23rd, when Admiral Keppel begged the Court to take notice, that, for the purpose of shortening, if possible, the length to which he saw the trial would necessarily extend, if they still went over the same ground, and questions were repeatedly asked which he had admitted, he again told them that he admitted that the French fleet put themselves into order of battle when we discovered them. When Captain Digby mentioned, that from squally weather there was a swelling sea, and was asked whe-

ther the ships could then fight their lower-deck guns; he said, he could not have fought all his.

Admiral Montagu: In both articles of the charge, Admiral Keppel is charged with running away from the French fleet. Did you that day see him run away from them, instead of advancing to renew the engagement, as he might and ought to have done, which are the words expressed in the charge?

The charge was then read, and an objection started by Sir Hugh Palliser to the question, as contrary to law. Upon which several members of the court-martial said, "We do not care sixpence in this case for the law; we are come here to do justice, and hope, in God's name, it will be done."

Admiral Montagu: If Admiral Keppel ran away, Captain Digby did so too; and I suppose every part of the fleet followed their leader. Did you that day run away from the French fleet?—No.

Captain Hood, of the *Robuste,* was called upon and examined. *Admiral Arbuthnot* asked him if the admiral had thought fit to have renewed the attack when the French line was broke, could you have obeyed his signal and gone down to the enemy in the condition you were in?—I could not.

Admiral Montagu: From their relative situation, as you have described them, do you think the British admiral was running away from the enemy?—At that time there was no appearance of a flight.

Did the admiral run away any other time?—There was nothing in his conduct at any time which indicated, in the most distant manner, a flight. In the morning he pursued them.

Captain Allen, of the *Egmont*, was called, and he was finally put these questions. Sir, was it not more proper and prudent in the admiral to lay to, and repair his disabled ships before he renewed the attack, than to have returned to the engagement immediately?—Assuredly it was.

Then, sir, upon the whole did it appear to you, as an old experienced officer, that Admiral Keppel did by his conduct, either on the 27th or 28th of July, tarnish the honour of the British navy?—No; and I should not take upon me to say thus much, if I had not been forty years at sea, and three-and-thirty years an officer. I look upon it, the admiral did much honour to, instead of tarnishing, the British navy.

One circumstance showed very strongly the animus of Sir Hugh Palliser. It was discovered in the course of the trial, that some leaves had been taken out of the log book of the *Formidable*, containing the work of the 26th, 27th and 28th July, and the master of the *Formidable* was required to attend to explain.

Now such a witness should not be interfered with before coming to court by the prosecutor; yet that Sir Hugh Palliser did so interfere, appears by the following incident. *Vice-admiral Palliser* to the President: Sir, the cutting leaves out of the *Formidable's* log-book, is a fact of which I was totally ignorant, until it was perceived by a member of this court; nor could any person be more astonished at it than myself. It is my most anxious wish to have this matter fully investigated; and, for that purpose, I have ordered the master of the *Formidable*, and the mate who made the entries, to

attend here this morning; and, that they may be more strictly interrogated upon the matter, I desire that they may be examined by the court and Admiral Keppel, without any previous question from me.

Mr. Forfar, the master of the *Formidable*, being then called and sworn, and his former oath read to him, respecting the originality of the log-book, Admiral Keppel observed, that his reason for wishing to trouble the court the preceding day, when he requested the master of the *Formidable* might be immediately interrogated respecting that alteration, was to prevent any intermediate communication between him and others upon that subject; he, therefore, desired to know who was the person who first acquainted him, that the court had discovered any extraordinary circumstance relating to the book; and whether, and with whom, he had any conversation on that subject before the rising of the court the evening before? The witness answered, that he had heard a woman mention it to another in a shop where he had been; that it was between one and two o'clock, at that time, and he immediately came to the witnesses' room that he might be ready to attend the court if he should be called; that in his way, he met the master of the *Foudroyant*, who told him he thought he would be wanted on that business; that he spoke to no other person till he came into witnesses' room, where he saw Captain Walsingham, who told him he supposed he was come about the log-book; that he had no other conversation about it, till after the court broke up, when he conversed upon it with Captain Bazeley, at his lodgings, next door to the vice-admiral's; shortly after which he went to Sir Hugh Palliser's house.

Sir Hugh Palliser here observed, that in order to save the court trouble, he readily admitted that he had not only conversed with the witness before on the subject, but had interrogated him very strictly indeed on the subject. The master of the *Formidable* then made a very lame explanation as to the cutting out of the leaves in question.

The evidence being concluded for the prosecution, Admiral Keppel addressed the court in his defence, in a speech, in the composition of which he is said to have been assisted by his illustrious friend, Edmund Burke. Keppel spoke as follows :—

Sir,—After forty years spent in the service of my country, little did I think of being brought to a court-martial to answer charges of misconduct, negligence in the performance of duty, and tarnishing the honour of the British navy. These charges, sir, have been advanced by my accuser. Whether he has succeeded in proving them or not, the court will determine. Before he brought me to trial, it would have been candid in him to have given vent to his thoughts, and not, by a deceptious show of kindness, to lead me into the mistake of supposing a friend in the man who was my enemy in his heart, and was shortly to be my accuser. Yet, sir, after all my misconduct; after so much negligence in the performance of my duty; and after tarnishing so deeply the honour of the British navy, my accuser made no scruple to sail a second time with that man who had been the betrayer of his country. Nay, during the time that we were on shore, he corresponded on terms of friendship, and even in his letters he approved of what

had been done, of the part which he now condemns, and of the very negligent misconduct which has since been so offensive in his eyes!

Such behaviour, sir, on the part of my accuser, gave me little reason to apprehend an accusation from him. Nor had I any reason to suppose that the State would criminate me. When I returned, His Majesty received me with the greatest applause. Even the first lord of the Admiralty gave his flattering testimony to the rectitude of my conduct, and seemed with vast sincerity to applaud my zeal for the service. Yet, in the moment of approbation, it seems as if a scheme was concerting against my life; for, without any previous notice, five articles of a charge were exhibited against me by Sir Hugh Palliser, who, most unfortunately for his cause, lay himself under an imputation of disobedience of orders at the very time when he accused me of negligence. This, to be sure, was a very ingenious mode of getting the start of me. An accusation exhibited against a commander-in-chief might draw off the public opinion from neglect of duty in an inferior officer. I could almost wish, in pity to my accuser, that appearances were not so strong against him. Before the trial commenced, I actually thought that my accuser might have some tolerable reason for his conduct. But from the evidence even as adduced to account for the behaviour of the honourable gentleman in the afternoon of the 27th of July; from that evidence, I say, sir, I find that I was mistaken. The trial has left my accuser without excuse, and he now cuts that sort of figure which I trust in God all accusers of innocence will exhibit!

I have observed, sir, that the opinions of officers of different ranks have been taken. I trust that the court will indulge me in the liberty in the evidence for my defence. Some have refused to give their opinions. I thought it strange, as plain speaking and a full declaration are the best of evidences in a good cause.

I would wish, sir, the court to consider that in all great naval, as well as military operations, unless the design be fully known, the several manœuvres may have a strange appearance. Masters have been called to give their opinions on the higher departments of command. Higher authorities should have been taken. Such authorities are not scarce; for I am happy to say, there never was a country served by naval officers of more bravery, skill and gallantry, than England can boast at present. As to this court, I entreat you, gentlemen, who compose it, to recollect that you sit here as a court of honour, as well as a court of justice, and I now stand before you not merely to save my life, but for a purpose of infinitely greater moment—to clear my fame.

My accuser, sir, has been not a little mistaken in his notions of the duty of a commander-in-chief, or he never would have accused me in the manner he has done. During action, subordinate officers either are, or they ought to be, too attentive to their own duty to observe the manœuvres of others. In general engagements, it is scarcely possible for the same objects to appear in the same point of view to the commanders of two different ships. The point of sight may be different. Clouds of smoke may obstruct the view. Hence will

arise the difference in the opinions of officers as to this or that manœuvre, without any intentional partiality. Whether I have conceived objects in exact correspondence with the truth—whether I have viewed them unskilfully (or as my accuser has been pleased to term it, unofficer-like), these are matters which remain to be determined. I can only say, that what Sir Hugh Palliser has imputed to me as negligence, was the effect of deliberation and choice. I will add, that I was not confined in my powers when I sailed; I had ample discretion to act as I thought proper for the defence of the kingdom. I manœuvred; I fought; I returned; I did my best. If my abilities were not equal to the task, I have the consolation to think that I did not solicit, nor did I bargain for the command. More than two years ago, in the month of November, 1776, I received a letter from the first lord of the marine department, wherein he observed, that, owing to motions of foreign courts, it might be necessary to prepare a fleet of observation. My reply to this letter was, That I was ready to receive any command from his majesty, and I begged to have the honour of an audience. This request was complied with. I was closetted, and I told the king I was willing to serve him as long as my health would permit. I heard no more till the month of March 1778, at which time I had two or three audiences, and I told his majesty that I had no acquaintance with his ministers, but I trusted to his protection and zeal for the public good. Here were no sinister views; no paltry gratifications; I had nothing—I felt nothing, but an earnest desire to serve my country. I even

accepted the command in chief with reluctance. I was apprehensive of not being supported at home. I foresaw that the higher the command, the more liable was I to be ruined in my reputation. Even my misfortunes, if I had any, might be construed into crimes. During forty years' service, I have not received any particular mark of favour from the crown. I have only been honoured with the confidence of my sovereign in times of public danger. Neither my deficiencies, nor my misconduct, were ever before brought forward to the public. And it is now somewhat strange, that so well acquainted as my accuser must have been with my deficient abilities, it is strange, I say, sir, that he should be the very person who brought me the message to take the command upon me! Nay, further, sir, he brought that message with great seeming pleasure! There was, or there was not, reason at that time to doubt my ability. If there was reason, how could my accuser wish me to accept a command for which I was disqualified? If there was not any reason to doubt my professional abilities sixteen months ago, I have given no reason why they should since be called in question. When I returned from the expedition, I did not complain of anything. I endeavoured to stop all murmurings. I even trusted the first lord of the Admiralty in the same manner as I would have done my most intimate friend. This might be imprudent—it might be dangerous; but, sir, I am by nature open and unguarded, and little did I expect that traps would be artfully laid to endeavour to catch me on the authority of my own words.

It was in the month of March, 1778, that I was told

a fleet lay ready for me to command. When I reached Portsmouth, I saw six ships ready, and, on viewing even those with a seaman's eye, I was not by any means pleased with their condition. Before I quitted Portsmouth, four or five more were ready, and I will do the persons in office the justice to say, that from that time they used their utmost diligence in getting the fleet ready for service.

On the 20th of June, I sailed with twenty ships of the line, and very fortunately I fell in with the *Belle Poule*, and other French frigates, and the letters and papers found on board them were of material service to the state. Captain Marshall distinguished himself with the greatest honour. I confess that when I fell in with those frigates, I was at a loss how to act. On the one hand, I conceived the incident to be favourable to my country; and, on the other, I was fearful that a war with France and all its consequences might be laid to my charge. For anything I can tell, this may be the case. It may be treasured up to furnish another matter for future accusation. To this hour I have neither received official approbation, nor censure for my conduct. With twenty ships of the line I sailed. Thirty-two ships of the line lay in Brest water, besides an incredible number of frigates. Was I to seek an engagement with a superior force? I never did, nor shall I ever fear to engage a force superior to the one I then commanded, or that I may hereafter command. But I well knew what men and ships can do; and, if the fleet I commanded had been destroyed, we must have left the French masters of the sea. To refit a fleet requires

time. From the situation of affairs, naval stores are not very soon supplied. Never did I experience so deep a melancholy as when I found myself forced to turn my back on France! I quitted my station, and my courage was never put to so severe a trial.

I was permitted to sail a second time, without receiving official praise or blame for the part I had acted. These were discouraging circumstances. But they did not disturb my temper. My principal object was to get ready for sea with all possible haste. I was surprised on my return to be threatened with the fate of Admiral Byng, and I was still more surprised to be charged with cowardice.

With thirty ships of the line I sailed early in July. The French admiral sailed from Brest with thirty-two ships. I believe that, when the fleets came in sight of each other, the French were not a little surprised to see me so strong. I desire not to throw the slightest imputation on the courage of the French admiral. I believe him to be a brave man, and one who had some particular reasons for the line of conduct he pursued. I was determined, if possible, to bring the French to battle, as I had every reason to think that their having avoided an engagement, when it was for four days in their power to attack me, was owing to their expecting some capital reinforcements. I therefore thought that the sooner I could engage them the better, especially as I knew that the principal fleets of our trade were daily expected in the channel, and if the French fleets had been permitted to disperse without an action, our East and West India fleets might have been inter-

cepted, the convoys might have been cut off, and the stake of England might have been lost. I beg leave to mention, that in the reign of King William, the gallant Admiral Russell was two months in sight of a French fleet, and he could not possibly bring them to action. My being in sight of the French fleet four days before the engagement will not, therefore, appear quite so extraordinary as it has been represented. Had it not been for the favourable change of wind on the morning of the 27th of July, I could not have brought the French to action when I did.

I am exceedingly sorry, sir, that the Admiralty have refused me the liberty of producing my instructions. In all former courts'-martial the instructions and orders have been sent with the charge to the members of the Court. As it has been denied in this instance, I must, and do, submit.

Although on the 27th of July I fought and beat my enemy, and compelled him to take shelter by returning into port, yet the effect did by no means answer my wishes. I rushed on to re-attack my enemy. Why I did not accomplish my design will be seen in the evidence I shall produce. I might, it is true, have chased the three ships which were visible on the morning of the 28th of July, but with very little prospect of success. I, therefore, chose to return to Plymouth with my shattered fleet, to get ready for sea again, not, however, forgetting to leave two ships of the line to cruize for the protection of our trading fleets, which, thank God! all arrived safe.

On my return, sir, I most cautiously avoided to utter

a syllable of complaint, because it might have suspended our naval operations, which at that time would have been highly dangerous. I could not think of attending to a court-martial when greater objects were in view.

With respect to the second edition of the *Formidable's* log-book, it appears to have been fabricated rather for the purpose of exculpating the prosecutor than to criminate me. I shall, therefore, pass it over, and permit the gentleman to make the most of such an exculpation. I cannot, however, be so civil to the alterations and additions in the log-book of the *Robust*. Captain Hood's conduct must have struck the court, as I believe it did every person, except the prosecutor, with astonishment.

A great stress, sir, has been laid on my letter to the Admiralty. There is a passage in it where I seemed to approve the conduct of every officer in the fleet. The court will observe, that I was not in my letter to inform all Europe, that a vice-admiral, under my command, had been guilty of neglect, whilst there remained a possibility of excuse for his conduct. As to courts-martial, one very bad consequence will, I am sure, result from this trial; it will terrify a commander-in-chief from accepting a commission, if he should be liable to be brought to trial by every subordinate officer.

As I have touched on my letters, I will just observe, sir, that the most disagreeable task that I ever experienced was that of writing my letter of the 30th of July. However, if I wrote ill, I am confident that I fought well, and the destruction of the trade of France

was evident from the number of rich captures which were made, a number far exceeding anything ever known in so short a period! His Majesty noticed this in a speech from the throne. . . . ."

The admiral then proceeded to reply seriatim and in detail to the five articles against him, and having concluded, called his witnesses, who established his complete exculpation, if, indeed, there could have been anything to explain or clear in his conduct. Among these witnesses was the Vice-Admiral Sir Robert Harland; and Captain Jervis, the future hero of St. Vincent, who emphatically said, "I cannot boast of a long acquaintance with Admiral Keppel; I never had the honour to serve under him before, but am happy in this opportunity to declare to the court, and to all the world, that, during the whole time the English navy was in sight of the French fleet, he displayed the greatest naval skill and ability, and the boldest enterprise, on the 27th of July, which, with the promptitude and obedience of the Vice-Admiral Sir Robert Harland, will be subjects for my admiration and imitation as long as I live."

The proceedings of the court-martial concluded on February 11, 1779, by an honourable acquittal of Admiral Keppel; the court unanimously deciding that the charge exhibited against him was malicious and ill-founded; it having appeared that the admiral, so far from having, by misconduct and neglect of duty on the days alluded to, lost an opportunity of rendering an essential service to the State, and thereby tarnishing the honour of the British navy, behaved himself as became a judicious, brave, and experienced officer.

The court did, therefore, unanimously and honourably acquit Admiral Augustus Keppel of the several articles contained in the charge exhibited against him, and he was fully and honourably acquitted accordingly.

The President, on the acquittal being announced, addressed himself to the admiral in the following words, delivering to him his sword at the same time:—

"ADMIRAL KEPPEL, it is no small pleasure to me to receive the commands of the court I have the honour to preside at, that in delivering to you your sword I am to congratulate you on its being restored to you with so much honour, hoping ere long you will be called forth by your sovereign to show it once more in the defence of your country."

The concourse of people that surrounded the court was immense. As soon as the sentence was pronounced an exclamation of joy burst forth in repeated peals, which was immediately communicated to the crowd without, and soon became general throughout the town and the whole nation by general illuminations.

In the "Gentleman's Magazine" for Feb. 1779, the following paragraphs show the great sensation created by the acquittal:—

"Thursday, Feb. 11.—About eleven o'clock at night, the news having arrived of the acquittal of Admiral Keppel, a riotous mob, to testify their zeal on the occasion, suddenly assembled, and did a great deal of mischief, by breaking the windows of those houses that were not illuminated, and entering the houses, and destroying the furniture of some gentlemen, against whom

the popular cry had been raised, particularly of Lord North, Lord Germaine, Lord Mulgrave, Sir Hugh Palliser, Captain Hood, and some others; but on the appearance of the military, and some of the leaders being apprehended, they dispersed, without attempting to rescue those who were in custody.

"Friday, Feb. 12.—At a Court of Common Council held at Guildhall, a motion was made, and unanimously agreed to, That the thanks of the court be given to the Hon. Augustus Keppel for his spirited conduct during the action of the 27th of July last, for the protection given by him to trade, &c., &c.

"Another motion was at the same time made, That the freedom of the city be presented to Admiral Keppel, in a box made of heart of oak, richly ornamented, and embellished with gold, &c., which motion was likewise agreed to.

"Sunday, Feb. 14.—Admiral Keppel's flag was hoisted on board the *Victory* at Spithead.

"Thursday, Feb. 18.—Admiral Keppel received the thanks of the House of Commons. He also received the thanks of the House of Lords then sitting.

"Friday, Feb. 19.—Admiral Keppel attended the levee at St. James's, and was graciously received by His Majesty.

"Saturday, Feb. 20.—Admiral Keppel dined, by invitation, at the London Tavern. His carriage was drawn by sailors through the city, and the illuminations were more general in the evening than ever was known."

The trial of Sir Hugh Palliser by court-martial

seemed a necessary consequence of the acquittal of Keppel. Palliser was accordingly tried at a court-martial held on board the *Sandwich* at Portsmouth. The investigation lasted from April 12 to May 5, 1779, and the result was, that though the court blamed Palliser for not having made known to his commander how the *Formidable* had been so crippled by an explosion, that Admiral Keppel's signals could not be attended to, yet the court found that Sir Hugh's conduct had been in many respects highly exemplary and meritorious, and in general terms acquitted him. Despite of this, the popular feeling ran strongly against Sir Hugh Palliser, and though a brave and experienced officer, he never found favour with the public again. He resigned, in 1779, his seat in the House of Commons, his appointment as a lord of the Admiralty, and all his other official employments. He, however, eventually became Governor of Greenwich Hospital, and an admiral of the White. He died at Greenwich the 19th March, 1796.

Admiral Keppel remained a popular man to the day of his death. The admiral, when the party of the Marquess of Rockingham came into power, in 1782, was made first lord of the Admiralty, and a privy councillor; and, on the 22nd April, 1782, he was created Viscount Keppel of Elvedon, in the county of Suffolk. He continued, with a slight intermission, first lord of the Admiralty till 1784, when, soon after, he retired into private life, where his constant amiability and unaffected cheerfulness won him to the last the affection and cordial attentions of all around him.

He died of gout in the stomach on the 2nd October, 1786, at his seat, Elden Hall, Suffolk, and, as he was never married, his peerage expired with him; but the noble family to which he belonged still flourishes high in rank and well-merited reputation. The admiral's grand nephew is now head and representative of the house, as sixth Earl of Albemarle.

Edmund Burke, in his famous "Letter to a Noble Lord," thus refers to Admiral Keppel:

"No man lives too long, who lives to do with spirit, and suffer with resignation, what Providence pleases to command, or inflict; but, indeed, they are sharp incommodities which beset old age. It was but the other day that, on putting in order some things which had been brought here on my taking leave of London for ever, I looked over a number of fine portraits, most of them of persons now dead, but whose society, in my better days, made this (Beaconsfield) a proud and happy place. Among these was the picture of Lord Keppel. It was painted by an artist worthy of the subject (Sir Joshua Reynolds), the excellent friend of that excellent man from their earliest youth, and a common friend of us both, with whom we lived for many years without a moment of coldness, of peevishness, of jealousy, or of jar, to the day of our final separation. I ever looked on Lord Keppel as one of the greatest and best men of his age; and I loved and cultivated him accordingly. He was much in my heart, and I believe I was in his, to the very last beat. It was at his trial at Portsmouth that he gave me this picture. With what zeal and anxious affection I attended him through that his

agony of glory, what part my son took in the early flush and enthusiasm of his virtue, and the pious passion with which he attached himself to all my connections; with what prodigality we both squandered ourselves in courting almost every sort of enmity for his sake, I believe he felt, just as I should have felt such friendship on such an occasion. I partook, indeed, of this honour, with several of the first, and best, and ablest in the kingdom, but I was behindhand with none of them; and I am sure that if, to the eternal disgrace of this nation, and to the total annihilation of every trace of honour and virtue in it, things had taken a different turn from what they did, I should have attended him to the quarter-deck with no less good will and more pride, though with far other feelings, than I partook in the general flow of national joy that attended the justice that was done to his virtue. Pardon, my lord, the feeble garrulity of age, which loves to diffuse itself in discourse of the departed great. At my years we live in retrospect alone; and, wholly unfitted for the society of vigorous life, we enjoy, the best balm to all wounds, the consolation of friendship, in those only whom we have lost for ever."

THE MUTINY OF THE "BOUNTY."

THE outrageous act of insubordination on open sea, known as "The Mutiny of the *Bounty*," has proved, from the lasting interest it has excited, and from its extraordinary results, one of the most wonderful events in the annals of our navy. The memory of the foul crime has flourished, not only in tales, dramas, and poetry, but in the very good that Providence worked out of it. Pitcairn's Island, where the mutineers and their descendants settled, and Norfolk Island, whither the latter have removed, are models of civilisation to the whole Polynesian world. In poetry, the Mutiny has been done the highest, and, indeed, the unfairest honour. Lord Byron's magnificent production, "The Island; or, Christian and his Comrades," has converted the guilty mutineers into a band of heroes; and his lordship, with a morbid taste for criminals of the corsair stamp, has thrown a glow of chivalry over deeds which deserved only the whipping post and the gallows. He, too, passes over, in a very few impressive lines, the great and real heroism of the whole affair—a heroism that deserved an Odyssey for its record. I allude to the conduct of Captain, afterwards Admiral, William Bligh, a seaman,

illustrious in consequence, who, when his mutinous crew cast him and nineteen others adrift in an open boat, guided and cheered his associates with undaunted energy and perseverance, through a sail of more than 3,500 miles, until they arrived safe at the Dutch settlement, in the island of Timor, without losing more than one man. Lord Byron wrongfully compares with the Spartans of Thermopylæ, Christian and his comrades, who, with one or two exceptions, as they afterwards turned out, were murderous vagabonds merely. A far juster comparison would have been that of William Bligh and his companions in the open boat, with the unconquered spirits that defended the pass of Thermopylæ. The British navy ought well to be proud of the memory of Captain Bligh. Before proceeding to a summary of the mutiny, a word or two may be said biographically of the principal actors in the terrible transaction.

To begin with Bligh, a giant spirit in difficulty. He was a scion of the family to which belong the Earls of Darnley, and he was the grandson of Richard Bligh, Esq., of Tinten, near Bodmin, in Cornwall, and the son of William Bligh, Esq., by Jane, his wife. He was born at Bodmin in 1753, and received a home education. He went very early in life into the royal navy, and was soon remarked for his aptness and his steady and sensible performance of his duty. After passing his examination as lieutenant, he, on the understanding that his promotion should go on, went as sailing master, under Captain Cook, and was for four years with that great navigator, in the *Resolution*. In Cook's history of his researches in the Southern Pacific, Bligh's name

frequently occurs. Bligh was a lieutenant when he was appointed to command the *Bounty*. He was a strict disciplinarian, but by no means a harsh or unamiable man. He would have his orders obeyed, but he, at the same time, was always studious of the comfort and happiness of the men under him. By his own family and by all his associates in his profession he was thoroughly beloved and respected.

Fletcher Christian, master's mate on board the *Bounty*, and the chief and worst mutineer, was a man of good family and education, and had actually owed his advancement in the service to Captain Bligh. He was the brother of Professor Christian, Chief Justice of Ely, the well-known editor of "Blackstone's Commentaries."

Peter Heywood, a midshipman on board the *Bounty*, who joined the mutiny, and who, after being convicted and pardoned for it, redeemed his character and became a captain in the royal navy, was of a very respectable family, and was grandson of Mr. Heywood, Chief Justice of the Isle of Man. Peter Heywood was, no doubt, the Torquil of Lord Byron's poem.

Edward Young, a midshipman, and another mutineer, was nephew of Admiral Sir George Young, Bart.

Alexander Smith, *alias* John Adams, the most remarkable of the mutineers, and afterwards the famous patriarch of Pitcairn's Island, was a sailor of the ordinary class.

David Nelson, the botanist, a credit to his great name, who sailed with and shared the perils of Bligh, was a man of much scientific knowledge. He had been in Captain Cook's last voyage, and was appointed

to the *Bounty* on the recommendation of Sir Joseph Banks.

The circumstances of the mutiny were as follow:—

His Majesty's ship *Bounty*, an armed vessel, was fitted out under the express desire of King George III., and sailed from England in the winter of 1787, commanded by Lieutenant Bligh, on a voyage to the Society Islands to gather bread-fruit trees, and to bring them for transplantation to the British West India settlements, in which climate, it was the opinion of Sir Joseph Banks, they might be successfully cultivated, and prove a succeedaneum for other provisions in times of scarcity.

The *Bounty* actually departed on its voyage from Spithead on the 23rd December, 1787, and after having to change its first intended course by Cape Horn for the Cape of Good Hope, arrived at Otaheite, the chief of the Society Islands, on the 25th October, 1788. Here Bligh and his crew were received in the most friendly way by the gentle inhabitants of the island, and here they passed a delightful but too enervating period of five months and a half. The worst of it was, the charms of the place proved too strong a temptation for the seamen of the *Bounty*. The women of Otaheite had fascinated them to a degree that deprived them of all sense of right or duty. Well might a locality in the island be termed "Point Venus." The whole territory seemed a Paphos, for in no savage land had there before ever been found women so beautiful, so agreeable, and so affectionate. I have it from one of Captain Bligh's descendants, that the captain always attributed the mutiny solely to the irresistible desire of the crew to return to the society of the Otaheite women.

Byron, in his poem, agrees with Bligh in this view, and thus depicts Otaheite:—

"The gentle island, and the genial soil,
The friendly hearts, the feasts without a toil,
The courteous manners but from Nature caught,
The wealth unhoarded, and the love unbought;
Could these have charms for rudest sea-boys, driven
Before the mast by every wind of heaven?
And now, even now prepared with others' woes
To earn mild Virtue's vain desire, repose?"

Byron's description of the Otaheite girl, Neuha, gives a fair idea of the charms of the female population of Otaheite:—

"There sat the gentle savage of the wild,
In growth a woman, though in years a child,
As childhood dates within our colder clime,
Where nought is ripen'd rapidly save crime;
The infant of an infant world, as pure
From Nature—lovely, warm, and premature,
Dusky like night, but night with all her stars;
Or cavern sparkling with its native spars;
With eyes that were a language and a spell,
A form like Aphrodite's in her shell,
With all her loves around her on the deep,
Voluptuous as the first approach of sleep;
Yet full of life—for through her tropic cheek
The blush would make its way, and all but speak:
The sun-born blood suffused her neck, and threw
O'er her clear nut-brown skin a lucid hue,
Like coral reddening through the darken'd wave,
Which draws the diver to the crimson cave."

A slight sign of a mutinous intention was shown at one time during the stay on the island. Charles Churchill, the ship's corporal, and two seamen, William Musprat and John Millward, temporarily deserted; but, after some days' search for them, they surrendered, and

threw themselves on Bligh's mercy. He generously, but not wisely, as it turned out, forgave them. Bligh had made good, however, the object of his voyage, so far as to have received on board a great number of the bread-fruit trees in various stages of growth, and there was every prospect of their being capable of preservation. The ship, thus laden, quitted Otaheite on the 4th of April, 1789, and continued her course in a westerly direction, touching at one more island, and then meditating her progress through the Pacific Ocean towards the Moluccas. The ship lost sight of the Friendly Islands on the 27th of that month, and everything like good order was supposed to prevail on board—even the mid-watch was relieved without the least apparent disorder; but at daybreak on the 28th, the cabin of Captain Bligh, who commanded the *Bounty*, was forcibly entered by the officer of the watch, Fletcher Christian, assisted by Churchill, Mills, and Burkitt, who dragged him instantly on the deck, menacing his life if he attempted to speak. His endeavour to exhort and bring back the conspirators to their duty proved of no avail. Each of the desperadoes was armed with a drawn cutlass or a fixed bayonet, and all their muskets were avowed to be charged.

Captain Bligh discovered, when he came upon deck, several of the crew and most of the officers pinioned; and while he was thus contemplating their perilous state, the ship's boat was let over her side, and all who were not on the part of the conspirators, to the number of nineteen besides the captain, were committed to the boat, and no other nourishment afforded to them than

about 140 lbs. of bread, 30 lbs. of meat, one gallon and a half of rum, a like portion of wine, and a few gallons of water. A compass and quadrant were secured by one of these devoted victims as he was stepping into the boat; and thus abandoned, the mutineers, after giving them a cheer, stood away, as they said, for Otaheite.*

* Byron, with wonderful poetic accuracy, recounts the actual mutiny:—

"Awake, bold Bligh! the foe is at the gate!
Awake! awake!—alas! it is too late!
Fiercely beside thy cot the mutineer
Stands, and proclaims the reign of rage and fear,
Thy limbs are bound, the bayonet at thy breast;
* * * * *
Full in thine eyes is waved the glittering blade,
Close to thy throat the pointed bayonet laid;
The levell'd muskets circle round thy breast,
In hands as steel'd to do the deadly rest.
Thou dar'st them to their worst, exclaiming—'Fire!'
But they who pitied not could yet admire,
Some lurking remnant of their former awe
Restrained them longer than their broken law;
They would not dip their souls at once in blood,
But left thee to the mercies of the flood.
'Hoist out the boat!' was now the leader's cry;
And who dare answer 'No!' to mutiny,
In the first dawning of the drunken hour,
The Saturnalia of unhoped-for power?
The boat is lower'd with all the haste of hate,
With its slight plank between thee and thy fate;
Her only cargo such a scant supply
As promises the death their hands deny;
And just enough of water and of bread,
To keep, some days, the dying from the dead:
Some cordage, canvas, sails, and lines, and twine,
But treasures all to hermits of the brine,
Were added after, to the earnest prayer
Of those who saw no hope save sea and air;
And last, that trembling vassal of the Pole—
The feeling compass—Navigation's soul."

The captain, in the dreadful situation, found his boatswain, carpenter, gunner, surgeon's mate, with Mr. Daniel Nelson, the botanist, and a few inferior officers, amongst those who were likely to share his fate. After a short consultation, it was deemed expedient to put back to the Friendly Islands: and accordingly they landed on one of these, in hopes they might improve their small stock of provisions, on the 30th of April, but were driven off by the natives two days after, and pursued with such hostility that one man was killed and several wounded. It was then deliberated whether they should return to Otaheite and throw themselves on the clemency of the natives, but the apprehension of falling in with the *Bounty* determined them with one assent to make the best of their way to Timor; and to effect this enterprise—astonishing to relate!—they calculated the distance, near 4,000 miles, and in order that their wretched supply of provisions might endure till they reached the place of destination, they agreed to apportion their food to one ounce of bread and one gill of water a day for each man. No other nourishment did they receive till the 5th or 6th of June, when they made the coast of New Holland, and collected a few shell-fish; and with this scanty relief they held on their course to Timor, which they reached on the 12th, after having been forty-six days in a crazy, open boat, too confined in dimensions to suffer any of them to lie down for repose, and without the least awning to protect them from the rain, which almost incessantly fell for forty days. A heavy sea and squally weather for great part of their course augmented their misery. The governor of this

settlement, which belonged to the Dutch, afforded them every succour they required. They remained here to recruit their strength and spirits till the 20th of August, when they procured a vessel to carry them to Batavia. They reached Batavia on the 2nd of October, and from thence Captain Bligh and two of the crew embarked for the Cape of Good Hope, and the rest of the crew were prepared to follow as soon as a passage could be obtained. Captain Bligh reached the Cape about the middle of December, and soon after took his passage for England, which he reached on the evening of the 13th of March, and arrived in London on the 14th. Bligh's published narrative of this wonderful escape, the result of his own indomitable courage and perseverance, is a work elegantly written and full of the deepest interest. It well deserves a place by the side of the great fiction "Robinson Crusoe" and the true voyages of Captain Cook. Bligh's own account of the landing at Timor is so graphic, that I cannot refrain from giving it here:—

"I now," he writes, "desired my people to come on shore, which was as much as some of them could do, being scarce able to walk; they, however, were helped to the house, and found tea, with bread-and-butter, provided for their breakfast.

"The abilities of a painter, perhaps, could seldom have been displayed to more advantage, than in the delineation of the two groups of figures, which at this time presented themselves to each other. An indifferent spectator would have been at a loss which most to admire—the eyes of famine sparkling at immediate

relief, or the horror of their preservers at the sight of so many spectres, whose ghastly countenances, if the cause had been unknown, would rather have excited terror than pity. Our bodies were nothing but skin and bones, our limbs were full of sores, and we were clothed in rags. In this condition, with the tears of joy and gratitude flowing down our cheeks, the people of Timor beheld us with a mixture of horror, surprise, and pity. The governor, Mr. William Adrian Van Este, notwithstanding extreme ill-health, became so anxious about us, that I saw him before the appointed time. He received me with great affection, and gave me the fullest proofs that he was possessed of every feeling of a humane and good man. Sorry as he was, he said, that such a calamity could ever have happened to us, yet he considered it was the greatest blessing of his life that we had fallen under his protection; and, though his infirmity was so great that he could not do the office of a friend himself, he would give such orders as I might be certain would procure us every supply we wanted. A house should be immediately prepared for me, and, with respect to my people, he said that I might have room for them either at the hospital or on board of Captain Spikerman's ship, which lay in the road; and he expressed much uneasiness that Coupang (the Dutch capital in Timor) could not afford them better accommodations, the house assigned to me being the only one uninhabited, and the situation of the few families that lived at this place such that they could not conveniently receive strangers. For the present, till matters could be properly regulated, he gave directions

that victuals for my people should be dressed at his own house.

"On returning to Captain Spikerman's house, I found that every kind relief had been given to my people. The surgeon had dressed their sores, and the cleaning of their persons had not been less attended to, several friendly gifts of apparel having been presented to them. I desired to be shown to the house that was intended for me, which I found ready, with servants to attend. It consisted of a hall, with a room at each end, and a loft over-head, and was surrounded by a piazza, with an outer apartment in one corner, and a communication at the back part of the house to the street. I therefore determined, instead of separating from my people, to lodge them all with me, and I divided the house as follows:—One room I took to myself, the other I allotted to the master-surgeon, Mr. Nelson, and the gunner; the loft to the other officers, and the outer apartment to the men. The hall was common to the officers, and the men had the back piazza. Of this disposition I informed the governor, and he sent down chairs, tables, and benches, with bedding and other necessaries for the use of every one.

"The governor, when I took my leave, had desired me to acquaint him with everything of which I stood in need; but it was only at particular times that he had a few moments of ease, or could attend to anything, being in a dying state with an incurable disease. On this account I transacted whatever business I had with Mr. Timotheus Wanjon, the second of this place, who was the governor's son-in-law, and who also contributed

everything in his power to make our situation comfortable. I had been, therefore, misinformed by the seaman, who told me that Captain Spikerman was the next person in command to the governor.

"At noon a dinner was brought to the house, sufficiently good to make persons, more accustomed to plenty, eat too much. Yet, I believe, few in such a condition would have observed more moderation than my people did. My greatest apprehension was, that they would eat too much fruit, of which there was great variety in season at this time.

"Having seen every one enjoy this meal of plenty, I dined myself with Mr. Wanjon; but I felt no extraordinary inclination to eat or drink. Rest and quiet I considered as more necessary to the re-establishment of my health, and, therefore, retired soon to my room, which I found furnished with every cenvenience. But, instead of rest, my mind was disposed to reflect on our late sufferings, and on the failure of the expedition; but, above all, on the thanks due to Almighty God, who had given us power to support and bear such heavy calamities, and had enabled me at last to be the means of saving eighteen lives."

All, however, did not live to reach England. David Nelson, the botanist, died at Coupang, of fever, brought on by fatigue. Elphinstone, the master's mate, and two seamen, Hull and Linkletter, died at Batavia; Robert Lamb and Mr. Ledward, the surgeon, were lost on the return passage. "Thus," concludes Bligh, "of nineteen who were forced by the mutineers into the launch, it has pleased God that twelve should surmount

the difficulties and dangers of the voyage, and live to revisit their native country."

To now return to the mutineers.

They, to the number of twenty-five, after getting rid of the captain and his adherents, sailed back, in the *Bounty*, to Otaheite, but on landing there, Christian and eight of his comrades, in dread of the offended majesty of the British Admiralty, sought a safer refuge in the neighbouring Pacific Island of Pitcairn. From what ensued, the names of Christian's eight followers should be recorded. They were Edward Young, midshipman; John Mills, gunner's mate: Matthew Quintal, seaman; William McCoy, seaman; Alexander Smith, otherwise John Adams, seaman; John Williams, seaman; Isaac Martin, seaman; and William Brown, gardener. When the *Bounty* reached Pitcairn's Island she had on board these nine of the crew, with nine Otaheitan women; six Otaheitan men, three of whom had wives; and a little girl, who afterwards became the wife of Charles Christian, of the family of Fletcher. They burnt the *Bounty* after arriving at Pitcairn's Island.

They had not, writes the Rev. Mr. Murray, in his admirable account of Pitcairn, long set foot on the island, ere it became a stage for the display of every evil passion. They were "hateful, and hating one another." During the frightful period of domestic warfare between the Europeans and the blacks, in which the former often adopted the tremendously simple rule of might against right, the blacks made common cause together; and having planned the

murder of their imperious masters, they went, from time to time, into the woods to practise shooting at a mark, and thus became tolerably good marksmen. Their murderous plot reached the ears of the wives of the mutineers; and the females are said to have disclosed it to their husbands, just before the time appointed for the massacre, by adding to one of their songs these words, "Why does black man sharpen axe? To kill white man."

In the course of the deadly struggles occurring between the several parties, Christian, Mills, Williams, Martin, and Brown, were murdered in the year 1793, by the Otaheitan men, whom they had brought to the island with them. Christian was the first to fall a victim to their revenge. Mills was the next. Adams was shot, the ball entering at his shoulder and coming out at his neck. He fell; but suddenly sprang up and ran. They caught him; and a blow was aimed at his head with the butt-end of a musket. This he warded off with his hand, having his finger broken by the blow. On his again escaping, he ran down the rocks toward the sea; but his pursuers called out to him, that if he would return, he should not be hurt. He returned accordingly, and they troubled him no more. All the Otaheitan men were killed in the same year, one of them having been destroyed by Young's wife, with an axe. As soon as she had killed the last survivor but one of the Otaheitans, she gave a signal to her husband to fire upon the remaining black, which was done with fatal precision. This woman, Susannah, who afterwards married Thursday October Christian, Fletcher Chris-

tian's son, died at an advanced age, in the year 1850. She was the last survivor of the *Bounty*.

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But other horrors remained behind. In 1798, M'Coy, in a fit of *delirium tremens*, brought on by drunkenness, having thrown himself from the rocks into the sea, was drowned. Quintal, a violent and headstrong man, after threatening the lives of his companions, was killed by Young and Adams, who, in 1799, took away his life with an axe, in self-defence. Thus, six of the mutineers were murdered, and one committed suicide. Edward Young died of asthma, in 1800. Adams, as has been seen, was severely wounded in one of the contests that took place, but had recovered. Only two of the fifteen men who had landed from the *Bounty* (Young and Adams) died a natural death. The news of the mutiny and the sufferings of Bligh excited a great sensation in England. Bligh was at once made a commander; and Captain Edwards was forthwith dispatched to Otaheite, in Her Majesty's ship *Pandora*, to search for the *Bounty*, and to arrest and bring back to England the mutinous crew. The *Pandora* reached Otaheite the 23rd March, 1791, and before the vessel anchored, Coleman, the armourer of the *Bounty*, came in a canoe, and gave himself up. Two days afterwards the whole of the crew of the *Bounty*, who had stayed at Otaheite, surrendered themselves, with the exception of two, who fled to the mountains, and were murdered by the natives.

After a tempestuous voyage and a shipwreck, in which four of his prisoners perished, Captain Edwards

succeeded in bringing ten of the mutineers to England. These were tried by court-martial.

By the 15th article of war, statute 22 George II., cap. 33, every person in, or belonging to, the fleet, who shall run away with any of His Majesty's ships or vessels of war, shall, on being convicted of such offence, by the sentence of the court-martial, suffer death; and by the 16th article of war of the same statute, every person in, or belonging to, the fleet, who shall desert or entice others to do so, shall suffer death, or such other punishment as the circumstances of the offence shall deserve, and a court-martial shall judge fit: and by the 19th article of war of the same statute, if any person in, or belonging to, the fleet, shall make, or endeavour to make, any mutinous assembly, upon any pretence whatever, every person offending herein, and being convicted thereof by the sentence of the court-martial, shall suffer death.

The court-martial in this case was held at Portsmouth, on board His Majesty's ship *Duke*, on the 12th September, 1792. Vice-Admiral Lord Hood was the President. The officers who sat at the trial were Captains Sir A. S. Hamond, Bart., John Colpoys, Sir George Montagu, Sir Roger Curtis, John Bazeley, Sir Andrew S. Douglas, John T. Duckworth, John N. Inglefield, John Knight, Albemarle Bertie, (afterwards Admiral of the White, K.B., and a Baronet), and R. G. Keats.

The names of the ten prisoners, capitally charged with mutiny and piracy, were Peter Heywood, James Morrison, Thomas Ellison, Thomas Burkitt, John Millward, William Muspratt, Charles Norman, Joseph Coleman, Thomas M'Intosh, and Michael Byrne.

The trial was concluded on the sixth day, the 18th of September, when the prisoners were brought in. The court having agreed that the charges of running away with the ship and deserting His Majesty's service had been proved against six of the prisoners, they found Heywood, Morrison, Ellison, Burkitt, Millward, and Muspratt *guilty*, and adjudged them to suffer death by being hanged by the neck on board one of His Majesty's ships-of-war. The court acquitted Norman, Coleman, M'Intosh, and Byrne, and recommended Peter Heywood and James Morrison to His Majesty's mercy.

On the 24th of October, 1792, the royal warrant was dispatched, granting a free pardon to Heywood (he died a captain, R.N., the 10th of February, 1831) and to Morrison, with a respite for Muspratt. At the same time was sent a warrant for executing Burkitt, Ellison, and Millward. Muspratt was afterwards pardoned. Millward and Muspratt, with Churchill, were the men who had been deserters at Otaheite, and who had been forgiven by Bligh for that offence. Burkitt had been forward in the mutiny on board the *Bounty*. Ellison was a mere boy on the occasion of that act of violence; he is thus described in the list forwarded from Batavia in October, 1789:—"Thomas Ellison, seaman, aged seventeen years, five feet three inches high, fair complexion, dark hair, strong made; has got his name tattooed on his right arm, and dated October 25, 1788."

Morrison, before his connection with the *Bounty*, had served in the navy as a midshipman, and, after his pardon, had been appointed gunner of the *Blenheim*, in which he perished with Admiral Sir Thomas Troubridge.

In a violent gale on the 1st of February, 1807, that vessel was lost, with all the passengers and crew on her way from Madras to the Cape of Good Hope.

Burkitt, Ellison and Millward were executed, pursuant to their sentence, on the 26th of October, 1792, on board the ship *Brunswick*, in Portsmouth Harbour. Captain Hammond reported that the criminals had behaved with great penitence and decorum, had acknowledged the justice of their sentence, and exhorted their fellow-sailors to take warning by their untimely fate, enjoining them, whatever might be their hardships, never to forget their obedience to their officers, but to remember the duty which they owed to their king and country. The captain said that a party from each ship in the harbour, and at Spithead, had attended the execution; and that from the accounts he had received, the example seems to have made a salutary impression on the minds of all the ships' companies present.

More than sixteen years elapsed after that act of justice before aught more was heard of the remaining mutineers of the *Bounty*, when, in 1808, the captain of an American schooner, by chance wintering at Pitcairn's Island, made the wonderful discovery thus narrated by himself:—

"We left the friendly Marquesans on the 2nd of September, and were proceeding on our voyage, to regain the port of Valparaiso, steering a course which ought, according to the charts, and every other authority, to have carried us nearly three degrees of longitude to the eastward of Pitcairn's Island, our surprise was greatly excited by its sudden appearance; it was in the second

watch that we made it. At daylight we proceeded to a more close examination, and soon perceived huts, cultivation, and people; of the latter, some were making signs, others launching their little canoes through the surf, into which they threw themselves with great dexterity, and pulled towards us.

"At this moment, I believe, neither Captain Bligh (of the *Bounty*) nor Christian had entered any of our thoughts; and in waiting the approach of strangers, we prepared to ask them some questions in the language of those people we had so recently left. They approached us; and for me to picture the wonder which was conspicuous in every countenance at being hailed in perfect English, 'What was the name of the ship, and who commanded her?' would be impossible; our surprise can alone be conceived. The captain answered, and now a regular conversation commenced. He requested them to come alongside, and the reply was, 'We have no boat-hook to hold on by.' 'I will throw you a rope.' 'If you do we have nothing to make it fast to.' was the answer. However, they at length came on board, exemplifying not the least fear, but their astonishment was unbounded. After the friendly salutation of 'Good morrow, sir,' from the first man who entered, Mackay, for that was his name, said, 'Do you know one William Bligh in England?' This question threw a new light on the subject, and he was immediately asked 'If he knew one Christian?' and the reply was given with so much natural simplicity, that I shall here use his own words: 'Oh, yes,' said he, 'very well; his son is in the boat there, coming up; his name is Friday Fletcher

October Christian; his father is dead now—he was shot by a black fellow.' Several of them had now reached the ship, and the scene was become exceedingly interesting; every one betrayed the greatest anxiety to know the ultimate fate of that misled young man, of whose end so many vague reports had been in circulation, and those who did not ask questions, devoured with avidity every word which led to an elucidation of the mysterious termination of the unfortunate *Bounty*.

"Christian was shot by a black fellow—it was supposed through a jealousy which was known to exist between the people of Otaheite and the English; he was shot while at work in the yam plantation; the man who shot Christian was afterwards shot by an Englishman. A further dispute arose between the Otaheitans and English after the death of Christian, when the blacks rose and shot two Englishmen and wounded John Adams, the only surviving man of the mutineers, who saved himself from being murdered by hiding himself in the wood; and the same night the women, enraged by the murder of the English, to whom they were more partial than their countrymen, rose and put every Otaheitan to death in his sleep. This saved Adams. His wounds were soon healed; and, although old, he enjoys good health. Christian brought with him from Otaheite, in the *Bounty*, nine white men, six blacks, and eleven women; and at that time there were forty-eight persons on the island. Adams had told them he had been on the island about twenty-five years; that the *Bounty* was run on shore, and everything useful taken out of her, and then set fire to and burnt. Chris-

tian was shot about two years after he came to the island, his wife having died soon after the birth of his son; and he taking by force the wife of one of the blacks to supply her place, was the chief cause of his being shot; and his son, Friday Fletcher October Christian, was the oldest person on the island, except John Adams. They were allowed to marry at the age of nineteen or twenty, but not to have more than one wife, as it was considered wicked to have more; and being asked if they had been taught any religion, they answered, 'A very good religion,' and to their credit they went through the whole of the Belief, and said that John Adams had taught it them by order of F. Christian; and he caused a prayer to be said every day at noon: 'I will arise and go to my father, and say unto him, Father, I have sinned against heaven and before thee, and am no more worthy to be called thy son,' which they continued to say every day, and never neglected it.

* * * * *

"John Adams was a fine-looking old man, approaching to sixty years of age. We conversed with him a long time relative to the mutiny of the *Bounty* and the ultimate fate of Christian; he denied being accessary to, or having the least knowledge of, the conspiracy.

* * * *

"He told me he was perfectly aware how deeply he was involved; that by following the fortune of Christian he had not only sacrified every claim to his country, but that his life was the necessary forfeiture for such an act, and he supposed would be exacted from him was he ever

to return. Notwithstanding all these circumstances, nothing would give him so much gratification as that of seeing once more, prior to his death, that country which gave him birth, and from which he had been so long estranged. There was sincerity in his speech; I can hardly describe it, but it had a very powerful influence in persuading me that these were his real sentiments. My interest was excited to so great a degree that I offered him a conveyance for himself and any of his family who chose to accompany him. He appeared pleased at the proposal, and, as no one was then present, he sent for his wife and children; the rest of the little community surrounded the door. He communicated his desire, and solicited their acquiescence. Appalled at a request not less sudden than in opposition to their wishes, they were all at a loss for a reply. His charming daughter, although inundated with tears, first broke silence. 'Oh, do not, sir,' said she, 'take from me my father—do not take away my best, my dearest friend.' Her voice failed her—she was unable to proceed; she leaned her head on her hand, and gave full vent to her grief. His wife, too (an Otaheitan), expressed a lively sorrow. The wishes of Adams soon became known among the others, who joined in pathetic solicitation for his stay on the island. Not an eye was dry; the big tears stood in those of the men; the women shed them in full abundance: I never witnessed a scene so fully affecting, or more replete with interest. To have taken him from a circle of such friends would have ill become a feeling heart; to have forced him away, in opposition to their joint entreaties, would have been an outrage to

humanity. With an asssurance that it was neither our wish nor intention to take him away against his inclination, their fears were at length dissipated. His daughter, too, had gained her usual serenity; but she was lovely in her tears, for each seemed to add an additional charm. Forgetting the unhappy deed which placed Adams in that spot, and seeing him only in the character he now is, at the head of a little community, adored by all, instructing all in religion, industry, and friendship, his situation might be truly envied, and one is almost inclined to hope that his unremitting attention to the government and morals of this extraordinary little colony, will ultimately form an equivalent for the part he formerly took.

"Several books belonging to Captain Bligh, which were taken out of the *Bounty*, were then in the possession of Adams, and the "First Voyage of Captain Cook" was brought on board the *Briton*. In the title-page of each volume the name of Captain Bligh was written, and I suppose in his own writing. Christian had written his own name immediately under it, without running his pen through, or in any way defacing, that of Captain Bligh. On the margin of several of the leaves were written, in pencil, numerous remarks on the work; but, as I consider them to have been the private remarks of Captain Bligh, and written unsuspecting the much-lamented event which subsequently took place, they shall by me be held sacred."

From that time forward the colony at Pitcairn's Island was again and again visited, and eventually became a continual subject of public interest. Adams remained

its revered patriarch till 1829, when he died at the age of sixty-nine. The colony was afterwards admirably directed by the Rev. G. H. Nobbs, who, as chaplain of the Island, was ordained by the Rt. Rev. Dr. Bloomfield, bishop of London; and before returning to Pitcairn after his ordination he had an interview with the Queen and the Prince Consort, who both evinced the warmest and most cordial concern in the welfare and happiness of the colonists. As time went on and the numbers in the colony increased, Pitcairn's Island became too small for their support, and they were, on their own wish, removed by Government to Norfolk Island, a lovely spot which had recently been given up as a convict settlement. I cannot better conclude this account of the Islanders than with the following interesting extract, which is from a letter written by Captain W. H. Denhem, of Her Majesty's ship *Herald*, in charge of the survey in the South-Western Pacific Ocean, under date "Norfolk Island, 16th June, 1856," having reference to the Pitcairn Islanders taking possession of their new settlement, Norfolk Island :—

"On the morning of the 31st instant, having arranged with Lieut. John Hutchinson and Mr. J. W. Smith, assistant-surveyors, in regard to completing the survey of the island and its inlets, together with lines of soundings to the edge of the bank upon its surrounding aspects, in connection with our survey of last year, I effected a landing.

"Looking to the date of the transport *Morayshire*, which left Sydney under the instructions of his Excellency the Governor-General and of Captain Stephen G.

Fremantle, to bring the Pitcairn Island community to this island, I had reason to expect them every day. And as the presence of one of Her Majesty's ships at the new home of that interesting people would doubtlessly cheer them, as well as afford them essential aid in landing and organising, on the one hand, whilst as simultaneously as possible clearing the island of its residue as a penal settlement (upon all of which points and general views I was cognizant of the wishes of the Government), I became solicitous of being on the spot. I therefore had only to hope that the transport would arrive before my primary object in taking Norfolk Island *en route* to the Polynesian Islands could be accomplished.

"Fortunately, on Sunday the 8th instant, although a gloomy and boisterous day, with considerable surf, the *Morayshire* not only closed with the island, but being joined by the *Herald*, and assisted by a tracing of our survey, she took up a favourable position for disembarkation, and by sunset the Pitcairn community, numbering 194 persons, were comfortably housed as well as landed without accident. I was invited to their first evening Church service at their new home, when a special thanksgiving was rendered unto God for the preservation vouchsafed, and His guidance implored in the new era they had just entered upon. It was an exemplary manifestation of habitual piety that would not allow fatigue, amounting with many to almost exhaustion, nor that excitement in the robust at the extreme novelty of matters around them, to interfere with their wonted primary duty in life; on the contrary, these

artless, self-denying people, seemed to gather physical comfort and energy as they responded to our beautiful Church Service, rendered the more touchingly so by their admirable chanting, as they listened patiently and devoted to the well-adapted exhortation of their reverend pastor and counsellor, the Rev. George Hunn Nobbs. This gentleman could not rest until he had explained to me the pervading gratitude which the arrangements for the transit and reception of his flock had excited.

"To the manner in which Acting-Lieut. Gregorie managed their embarkation, so that every moveable article, even to the 'gun' and 'anvil' of the *Bounty*, has been transferred; to the accommodating spirit in which the master of the transport followed out his undertaking on a five weeks' passage, during which the most tender treatment was necessary for alarming cases of sea-sickness that ceased not from island to island, including a birth which took place; and finally, to the joyful sight of one of the Queen's ships, in whose boats, under Lieut. John Hutchinson, of the *Herald*, and in the separate charge of Messrs. Nixon, Howard, and Nugent, they were landed, while the commissariat officer and myself greeted them individually as they set foot on shore, and conducted them to the comfortably-prepared quarters, until they made their own selections from the ample dwellings erected for them, may be attributed the happy accomplishment of an event so vitally important to this peculiar community, in conformity with the deep interest taken in them by Her Majesty and the Government.

"The ensuing week has been successfully employed

in landing all the seventy years' gathering of chattels belonging to the Pitcairners, notwithstanding the precarious seaboard of this island, causing the ships to put to sea every night. They could, therefore, duly observe yesterday's Sabbath in the fitted-up church they had seen, and in which the sacrament was most impressively administered to us, together with every adult of the new congregation—a privilege I can never forget. Another solemnity marked this Sabbath, which, by our attending, assuaged the general depression which their first mourning visit to the cemetery was calculated to inflict; it being their custom for the whole of the community to attend each funeral. In the present case it was to inter a female infant, which had been embarked in a most delicate state, but had survived the voyage, though beyond medical relief when placed under the care of one of my medical officers, Mr. Denis Macdonald, in whose arms, as a slight consolation to its parents, it expired.

"Adverting to Pitcairn Island, future voyagers may find fresh beef there, as its late settlers left a bull and nine cows upon it. The pigs were destroyed, lest they might, in time, break through the fence and disturb the graveyard."

A word or two remain to be said about Bligh. His subsequent career was also one of public distinction: he was made a post-captain, and went on a second and successful voyage, with the same object as the first, to Otaheite. He was absent on it at the time of the court-martial. In 1797 the Admiralty employed him to go among the mutineers of the Nore, to endeavour to call the mis-

guided men to a sense of duty; he behaved on the occasion with great courage and discretion. In 1801 Bligh commanded the *Glatton*, at the battle of Copenhagen, under Lord Nelson, and was publicly thanked by his Lordship after the action. He was subsequently Governor of New South Wales, and became finally a Vice-Admiral of the Blue. He died in Bond-street, London, on the 7th December, 1817, and was interred in the churchyard of St. Mary's, Lambeth, where a tomb has been erected to his memory. Admiral Bligh married, at Douglas, Isle of Man, Elizabeth, daughter of Richard Beetham, LL.D., Comptroller of the Customs, Isle of Man, by his wife, Miss Campbell, daughter of Principal Campbell, of Glasgow College. (Dr. Beetham was a contemporary at college of David Hume, Adam Smith, and Lord Selkirk, and an intimacy was kept up between them in after-life.)

Admiral Bligh, by his marriage, had two sons, who died in infancy, and six daughters, one of whom only, Miss Jane Bligh, still survives. Three of the daughters were married—viz., 1. Harriet, who married Henry Barker, Esq., of Willsbridge, and left issue; 2. Mary, who married, first, Lieutenant Putland, of the family of Putland, of Brayhead, in the county of Wicklow, by whom she had no issue; and secondly, Lieutenant-General Sir Maurice O'Connell, K.C.H., and by him left Lieutenant-Colonel R. O'Connell, R.A., and other issue; 3. Elizabeth, who married Richard Bligh, Esq., barrister-at-law, and left issue.

I cannot conclude without expressing how very much I am indebted in the above particulars to the work

entitled, "Pitcairn: the Island, the People, and the Pastor," by the Rev. Thomas Boyles Murray, M.A., which has had merited success, and which deserves even still more extensive perusal.

The mutiny of the *Bounty* is an event that should be a solemn warning to every seaman in the navy, showing, as it does, the magic power of discipline, and the misery of insubordination. Bligh, and those who adhered to him, were preserved for nearly 4,000 miles in an open boat by the mere maintenance of discipline; while Christian and most of his guilty comrades, though having an armed vessel of war in their absolute power, perished miserably, because they had forsaken that system of duty and obedience which is the life-spring and the sacred safeguard of their profession.

THE MUTINY AT THE NORE.

On the 14th January, 1797, the glorious battle off Cape St. Vincent had been won by as famous a band of heroes as the world ever saw; and the names and deeds of the victors, Jervis, Nelson, Troubridge, Collingwood, Calder Saumarez, and Parker, were the talk and pride of all England. This naval triumph, in which Nelson boarded one man-of-war of eighty guns, and then another of 112 guns, and captured them both at the edge of the sword,—this triumph, in which fifteen British sail of the line defeated twenty-seven sail of the Spaniards, amongst them one vessel of 130 guns, and six of 112 guns,—this triumph, in fine, which was so completely decisive, made revolutionary Europe quail, and feel it had met its greatest check in the indomitable force and spirit of England on the seas. The general public exultation was natural enough; but, alas! before a few months passed, an event was to happen which was to throw a shadow, fortunately not of long duration, yet of the darkest hue that ever fell, upon the navy of Great Britain. This was the dire and discreditable revolt, known as "the Mutiny at the Nore."

This criminal insurrection was preceded by a less

unjustifiable outbreak at Spithead, caused by the complaints of the sailors being totally and foolishly neglected by the parties in power; for the sailors did, in 1797, labour under many grievances, "which," writes Mr. C. D. Yonge, in his able "History of the British Navy," "though they were inflicted on them through neglect and carelessness, rather than from any deliberate injustice, were not the less intolerable on that account. Their pay had not been raised from the sum at which it had been fixed in the time of the Duke of York, afterwards James II., though the price of all the necessaries of life had greatly risen. Their pensions, too, were left at the same amount, though those to which the soldiers became entitled had augmented. What was even more irritating, as carrying with it a greater appearance of intended unfairness, was, that for the provisions served out to them a lighter weight* was established than that used in ordinary traffic; while even for that light weight they were wholly at the mercy of the pursers, who at that time were commonly taken from a very inferior class of men, and who cheated and robbed the sailors without scruple and without limit. Other minor causes of complaint related to the general severity of the naval discipline; the constant refusal of leave even to men in harbour; and a variety of trifling matters, which, had they stood alone, would hardly have been thought of, but which no one could deny to be undeserved hardships, and which now

* The ordinary pound then, as now, consisted of sixteen ounces, but a sailor's pound was fixed at fourteen.

served to swell the catalogue of evils which the men were resolved no longer to endure."

In the month of February, 1797, the crews of four of the line-of-battle ships at Spithead forming the Channel Fleet, the *Queen Charlotte*, the flag-ship, being amongst them, addressed separate petitions to Lord Howe, their commander-in-chief. Lord Howe, being ill, referred the petitions to Admirals Lord Bridport and Sir Peter Parker, who, not inquiring closely into the matter, merely replied, that the petitions were the work of some evil-disposed persons. Consequently, the complete indifference these really peaceable and loyal addresses experienced drove the seamen to extremes. An agitation amongst them being perceived by those in authority, the Admiralty ordered the Channel Fleet to put to sea. On the 16th April Lord Bridport made the signal to prepare to weigh anchor. This led to an open mutiny, the men running up the shrouds and giving three cheers, and then proceeding to take the command of their ships from their officers. Two delegates from each ship were appointed to conduct the entire negotiation with the Admiralty; for throughout, these mutineers showed themselves bent on remonstrance only, and not rebellion. This line of conduct had its effect, for on investigation the lords of the Admiralty admitted the justice and moderation of the seamen's demands, and on the representation of their lordships, the Government agreed to grant all that was asked. This was done, and a royal proclamation issued, pardoning all such seamen as should at once return to their duty. After some renewal of agitation caused by par-

liamentary delay in carrying out the measures conceded, Lord Howe brought down a free pardon under the great seal to the fleet, and the men having expressed their contrition, cheerfully returned to submission and allegiance, and in less than a month every symptom of discontent among the two great fleets at Portsmouth and Plymouth had entirely passed away.

Unfortunately, this redress of grievances was obtained by a display of force, and this led other seamen to suppose that further and less reasonable acquisitions might be had in the same way. A fresh and a terrible mutiny broke out in the fleet stationed at the Nore, differing entirely from the revolt at Spithead. In the former instance, in the very height of disobedience, the sailors never lost their reverence for discipline, nor their respect for their superior officers. The mutineers at the Nore were simply rebels, with a very commonplace traitor for their leader. This man, Richard Parker, was just one of those persons who, of humble life and of evil spirit, with a little education, are so often found to be the chiefs of popular insurrections. He was a native of Exeter, where he was born about the year 1765 or 1766. His father, Joseph Parker, was a respectable tradesman, and kept a baker's shop at St. Sidwell's, in the bounds of Exeter city. Young Richard Parker received a good education, and in the course of time went to sea, which he had chosen as the scene of his future career. He obtained a midshipman's berth on board the *Culloden*, but was discharged from her for gross misconduct. He contrived to get similar rank on board the *Leander*, but he was again turned out. He sub-

sequently acted as a mate in the *Resistance* frigate, but his continued bad behaviour brought him to a court-martial, and reduced him to the position of a common sailor. He quitted the navy invalided, returned home, and married Miss Ann Machardy, a young lady resident in Exeter, but of Scottish origin, being a member of a respectable family in the county of Aberdeen. Her name deserves to be preserved, for her devotion to her husband made quite a heroine of her. This marriage led Parker to remove to Scotland, where he embarked in some mercantile speculations that proved unsuccessful. The issue was, that he found himself involved in difficulties, and without the means to maintain his wife and two children. In Edinburgh, where these embarrassments fell upon him and placed him for a time in gaol, he had no friends to apply to, and in a moment of desperation he took the king's bounty, and became again a common sailor on board a tender at Leith. When he had communicated to his wife the step he had taken, she was in the greatest distress, and resolved to set off instantly for Aberdeen, in order to procure from her brother there the means of hiring two seamen as substitutes for her husband. Though successful in raising the necessary funds, no time was allowed her to complete her project. On her return from Aberdeen, she was only in time to see the tender sail for the Nore, with her husband on board. Her grief on the occasion was bitterly aggravated by the death of one of her children. Parker's sufferings were shown to be equally acute by his conduct when the vessel sailed. Exclaiming that he saw the body of the

child floating on the waves, he leaped overboard, and was with difficulty rescued and restored to life. In this gloomy state of mind, in the beginning of May, 1797, Parker reached the Nore, or point dividing the mouths of the Thames and the Medway. Probably on account of his former experience and station as a seaman, he was drafted on board the *Sandwich*, which was the guard-ship, and bore the flag of Admiral Buckner, the port admiral. The mutinous spirit which afterwards broke out certainly existed on board of the Nore squadron before Parker's arrival. Communications were kept up in secret between the various crews, and the mischief was gradually drawing to a head. But though Parker did not originate the feeling of insubordination, his ardent temper, boldness, and superior intelligence, soon became known to his comrades, and made him a prominent man among them. He, cunningly availing himself of their general discontent, and assisted, as there seems no doubt, by agents from some of the revolutionary societies at that time existing in London, hastened the open mutiny, of which he was appointed the chief. The plans being at length matured, the seamen rose simultaneously against their officers, and deprived them of their arms, as well as of all command in the ships, though behaving respectfully to them in all other respects. Each vessel was put under the government of a committee of twelve men, and to represent the whole body of seamen, every man-of-war appointed two delegates, and each gunboat one, to act for the common good. Of these delegates Richard Parker was president. This representative body drew

up a list of grievances of which they demanded the removal. Parker signed these documents, and they were published over the whole kingdom, with his name, as well as presented to Port-Admiral Buckner, through whom they were sent to Government.

When these proceedings commenced, the mutineers were suffered to go on shore, and they paraded about Sheerness, where a part of the fleet lay, with music, flags (red in colour—the customary hue of insubordination), and other appendages of a triumphal procession. But, on the 22nd of May, troops were sent to Sheerness to put a stop to this indulgence. Being thus confined to their ships, the mutineers having come to no agreement with Admiral Buckner, began to take more decisive measures for extorting compliance with their demands, as well as for insuring their own safety. The vessels at Sheerness moved down to the Nore, and the combined force of the insurgents, which at its greatest height consisted of twenty-four sail, proceeded to block up the Thames, by refusing a free passage up or down to the London trade. Foreign vessels and a few small craft were suffered to go by, first receiving a passport, signed by Richard Parker, as president of the delegates. In a day or two the mutineers had an immense number of vessels under their detention. The mode in which they kept these was as follows :—The vessels of war were ranged in a line, at considerable distances from each other, and in the interspaces were placed the merchant vessels, having the broadsides of the men-at-war pointed at them. The appearance of the whole assemblage is described as having been at once stupendous and apal-

ling. The red flag floated from the mast-head of every one of the mutineer ships—a sad and a disgraceful sight.

It may be well imagined that the alarm of the citizens of London was extreme. The Government, however, though unable at the period to quell the insurgents by force, remained firm in their demand of "unconditional submission as a necessary preliminary to any intercourse." This, perhaps, was the very best line of conduct that could have been adopted. The seamen—and it was a palliation of their misguided behaviour—never seemed to think of assuming an offensive attitude, and were thereby left in quiet to meditate on the dangerous position in which they stood in hostility to a whole country. They grew timorous, the more so as the Government had caused all the buoys to be removed from the mouth of the Thames and the adjacent coasts, so that no vessel durst attempt to move away for fear of running aground. The mutineering vessels held together, nevertheless, till the 30th of May, when the *Clyde* frigate was carried off through a combination of its officers with some of the seamen, and was followed by the *Fiorenzo*. These vessels were fired upon, but escaped up the river. On the 4th of June, the king's birthday, the Nore fleet showed that loyalty to their sovereign still existed, by firing a general salute. On the 5th another frigate left the fleet, and its place was supplied by a sloop and four men-of-war, which had left Admiral Duncan's fleet at the Texel to join the mutiny. On the 6th Admiral Lord Northesk met the delegates by desire on board the *Sandwich*, and received

from them proposals for an accommodation, to which Parker still put his name as president. The answer was a firm refusal, and this firmness seems to have fairly humbled the remaining spirit of the mutineers. From that time one vessel after another deserted the band, and put themselves under the protection of the fleet at Sheerness. On the 10th the merchantmen were allowed, by common consent, to pass up the river, and such a multitude of ships certainly never entered a port by one tide. By the 12th only seven ships had the red flag flying, and on the 16th the mutiny had terminated, every ship having been restored to the command of its officers. A party of soldiers went on board the *Sandwich*, and to them the officers surrendered the delegates of the ship, namely, a man named Davis and Richard Parker. The latter was confined in the black-hole of Sheerness garrison until his trial, which was preceded by the trials of some others of the mutineers. Two, who, like Parker, suffered death, were tried at the court-martial held on board the *Royal William*, at Portsmouth, on the 21st June.

This court-martial had before it the six mutineers belonging to the *Pompée*. The evidence of all the witnesses, to the number of seventeen, on the part of the prosecution, went strongly to condemn the prisoners Gutherie, Calloway, Ashley, and Johnson; and some circumstances tended to make Davis and Braham more connected with the business. In the course of the evidence called and questioned, it appeared that these disaffected men were not able to get a real seaman to sign their paper, or to take the oath tendered. Such men as

took the oath did it through fear, and were the illiterate part of the crew, most of whom could not write their names or understand what they had sworn to. It is but justice to the well-affected part of the ship's company to admit the propriety of their conduct, in exposing the proceedings of the six prisoners. The conduct of Sergeant Sweet, of the Marines, in giving his evidence, was particularly commendable. The testimony on the part of the Crown closed at four o'clock. Several papers, very essential to clear up this black and mysterious business, had been destroyed; the only thing found was amongst Johnson's clothes, which was a form of oath, as follows:—"I, ——, do swear to stand true till death in promoting the cause of liberty with equity, while a prospect of obtaining it remains." Here the paper was torn, which showed there was something more to follow. The trial was so numerously attended from the ship and the shore, that props were obliged to be put under the beams of the *Royal William*, to support the immense number of people who flocked on board.

The court-martial ended on the 23rd June, at half-past six. By the sentence of the court, Calloway, Gutherie, Johnson, and Ashley were to suffer death; but the two former were recommended to mercy. A fifth mutineer was to be imprisoned twelve months, and the sixth acquitted. This sentence was confirmed, and Johnson and Ashley were executed on the 28th June.

The trial and conviction of these men were followed by the more momentous trial of Parker. This took place at Greenhithe upon the morning of the 22nd June, 1797, at ten o'clock. A court-martial was held on board

the *Neptune,* in pursuance of an order from the Lords Commissioners of the Admiralty, for the trial of Richard Parker, a seaman on board the *Sandwich,* upon charges of which the following is the substance:—Making, and endeavouring to make, mutinous assemblies on board the *Sandwich,* and others of her Majesty's ships at the Nore, on or about the 12th of May; disobeying the lawful orders of his superior officers, and treating his superior officers with disrespect.

Captain Moss, of the *Sandwich,* was the prosecutor; and the court was composed of the following officers:—

President, Vice-Admiral Sir Thomas Paisley, Bart.

Comm.	Sir Erasmus Gower . .	*Neptune,*	98
Captain	Stanhope	Ditto	
„	Markham	*Centaur,*	74
„	Williamson	*Agincourt,*	64
„	Wells	*Lancaster*	64
„	Lane.	*Acasto,*	44
„	Sir Thomas Williams .	*Endymion,*	36
„	King	*Syrius,*	36
„	Pierrepoint	*Naiad,*	36
„	Riou	*Mary Yacht,*	36

Admiral Buckner was the first witness called.

Q. "Do you know the prisoner?—*A.* Yes.

Q. "Does the prisoner belong to the *Sandwich*?—*A.* I heard so; but in what capacity I know not.

Q. "Will you report what you know of the prisoner being concerned in a mutiny on board the fleet at the Nore, on or about the 12th of May; or of any instances of disrespectful language or conduct to his officers during the time this mutiny existed?—*A.* The first time I

observed anything particular in the prisoner's conduct, farther than parading about with a vast number of people on shore with a red flag, was on or about the 20th of May, when I went on board the *Sandwich* for the purpose of making known to that ship and others his Majesty's proclamation of pardon on their returning to their duty, on the terms granted to their brethren at Spithead, which the delegates, among whom was Parker, had previously assured me they would be satisfied with. On my going on board with my flag in my boat there was no respect shown me whatever. The officers were then without their side-arms, and had no command in the ship. Unwilling to return on shore till an opportunity offered for my speaking to the people, I waited for a considerable time, when Parker, with others, came on the quarter-deck, and said that none other but themselves (meaning, I presume, the ship's company), should be present. The prisoner then tendered me a paper containing what he called a list of grievances, saying, at the same time, that until those were redressed, they would not give up the power then in their hands. They insisted, also, on the personal attendance of the Admiralty to ratify their demands. Finding my efforts to restore order of no avail, I went on shore. On the 22nd certain troops arrived at Sheerness; on the 23rd my flag was struck on board the *Sandwich*. On the evening of that day I was examining at the Commissioner's house; and while I was inquiring into complaints laid against two marines by a part of the military, the prisoner and a man whom they called Davies, with three or four others, I believe, came abruptly into

the house, and demanded why those men were in custody; telling me, at the same time, that my flag was struck, that I had no authority, and that the power was in their hands. They then took the men away, as they said, to trial. Another expression made use of by Parker was that he was not to be intimidated. About the 4th of June I received a letter from Parker, or rather, I should say, with his signature. In this letter he said that the Administration had acted improperly in stopping the provisions, and that the foolish proclamation was calculated to inflame the minds of honest men. I have nothing more particular to relate.

Q. "You have had frequent conferences with the prisoner?—*A.* With him at the head of many others, in order to bring them to a sense of their conduct. He, in general, took the lead as the spokesman, sometimes with a degree of insolence, appealing to the rest whether he was not authorized to speak the sense of the whole, and if it was their wish it should be so. He even prevented one man in particular, whose name I don't know, from answering a question I had put to him; saying, at the same time, 'Hold your tongue; if you don't, I'll take care of you.' While I was on board the *Sandwich,* I forgot to mention that I remonstrated with them against keeping those disgraceful ropes, called yard-ropes, hanging; but the delegates, amongst whom was the prisoner, refused to remove them.

Q. "In your conversation with the prisoner, did you ever experience any degree of insolence?—*A.* I sometimes did; but generally his deportment was the reverse, and he behaved with a great deal of apparent

respect. (Here were read Admiral Buckner's letter to the Admiralty informing the Lords Commissioners of the mutiny; a letter from Captain Moss to Admiral Buckner, informing him of certain particulars respecting the mutiny; Richard Parker's letter to Admiral Buckner, the substance of which was stated in the Admiral's evidence.)

The prisoner put some questions to show that the Admiral had been treated with respect. The President of the Court advised the prisoner to invalidate, if he could, by any question, that part of the narrative of Admiral Buckner which stated that he had released two marines, and told the Admiral that all his authority on board ship was at an end. The prisoner put no question to this effect. The other witnesses this day examined were—Lieut. Justice, of the *Sandwich*, and Mr. Snipe, Surgeon of the *Sandwich*, who stated that Parker acted as President of the Committee, and leading man on all occasions. The prisoner was about to ask some questions; but, being cautioned by the Court that they might criminate himself, they were withdrawn. Captain Surridge, of the *Iris*, who was present at what passed at Commissioner Hartwell's, and Captain Dixon, of *L'Espion*, who accompanied Admiral Buckner on board the *Sandwich*, confirmed the Admiral's evidence. At four o'clock Captain Dixon's evidence was interrupted, and the Court adjourned to the next day.

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"As I have been brought up from my youth to the sea, to the knowledge of some persons now present, nothing can be expected from me but a plain statement of facts; and it is impossible for me to dress up my defence in such pompous terms as I might do if I had the assistance of a lawyer. In the first place, I beg to return my thanks to the court for having indulged me with sufficient time to prepare my defence against the heavy charges which are brought against me. Nothing but the consciousness of the integrity of my intentions, and that I entered into this business with the hope of checking the progress of that bad spirit which I saw prevail among the fleet, could support me in the situation in which I now stand. Vice-Admiral Buckner has deposed, that he has often held conversation with me

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"As I have been brought up from my youth to the sea, to the knowledge of some persons now present, nothing can be expectcd from me but a plain statement of facts; and it is impossible for me to dress up my defence in such pompous terms as I might do if I had the assistance of a lawyer. In the first place, I beg to return my thanks to the court for having indulged me with sufficient time to prepare my defence against the heavy charges which are brought against me. Nothing but the consciousness of the integrity of my intentions, and that I entered into this business with the hope of checking the progress of that bad spirit which I saw prevail among the fleet, could support me in the situation in which I now stand. Vice-Admiral Buckner has deposed, that he has often held conversation with me

and the persons who were called delegates, and that my behaviour to him was sometimes respectful and sometimes otherwise. I never waited upon the admiral but by the order of the delegates, and pursuant to the instructions which I received from them. I never sported with the feelings of the admiral, but couched the representations I had to make in as respectful terms as I possibly could. It may be asked how I came to be the person fixed upon on these occasions? I was chosen by the delegates, for that purpose, and I could not resist their commands. I declare solemnly that I knew nothing of the mutiny till it had broke out in the fleet. In about two days afterwards I perceived that a bad spirit was prevalent among the men, and I then entered into it for the purpose of checking, as well as I could, the violence of their proceedings, and I am satisfied that, if I had not taken an active part in the business, though it has terminated so unfortunately, it would have terminated with consequences still more dreadful; and, conscious of the purity of my intentions, I can wait the decision of this honourable court with calmness. Vice-Admiral Buckner says that, on the 20th of May, when he went on board the *Sandwich*, he was not received with the proper respect due to his rank; but I am sure the admiral does not attribute that want of respect to me; for he states, in his evidence, that I did not go on board till after him; and upon this part of the charge I have no doubt of being able to satisfy the court of my innocence, because he states that as soon as I came on board I apologised to him for the disrespect which had been shown him, and told him that if he would accept

of it, there should be three cheers, and the yards manned. The admiral acknowledges this. There was a stir made towards cheering him, and this was done at the risk of my life. Some evil-disposed persons in the fleet had infused an idea into the minds of the men that the admiral was not competent to decide upon their grievances, and also the people on board the *Inflexible* had sent us word that if we offered to cheer the admiral, they would come alongside the *Sandwich* and sink her. On the same day Captain Moss sent Mr. Bray, the master of the *Sandwich,* to know the reason why the *Inflexible* had beat to quarters? When the persons sent got on board the *Inflexible,* they found the tompions taken out of the guns, and the matches lighted ready for action. There were meetings of the committee on board the *Inflexible,* to overawe the general meeting of the delegates, and these meetings were held daily on board that ship; and notwithstanding the stigma which has been thrown upon the *Sandwich,* the whole of the measures that were adopted originated on board the *Inflexible.* After a consultation among the ship's companies, I was directed to present the paper, containing the list of grievances, to Admiral Buckner, and everything I did was by their orders. After the paper had been presented to the admiral, he proceeded to Sheerness. I saw that Admiral Buckner's flag was struck, but I did not know the reason of it; and it was with the utmost concern that I saw the red flag flying in its place. There were many signals given that day by the *Inflexible* which I did not understand. With respect to what the admiral has said of my taking away two

marines, I must state to the court that it is true. I was that day on shore, at the commissioner's house, and went there by order of the persons calling themselves delegates. While they were refreshing themselves on shore with the usual allowance of a pint of beer each man, information was brought them that two marines had been taken up, and were then in confinement, for approving the proceedings of the sailors. They ordered me and some others to go to the guard-house, and inquire into the reason of their being in custody. When we got to the guard-house we were informed by the sentinel that he had no such persons in his custody. We then heard that the marines were at the commissioner's house. We were then ordered by the delegates to go there, and bring them on board. We informed the admiral of the commands we had received; and he told us the marines had been taken up for having used improper language in the neighbourhood of Queenborough. I was desired by those who accompanied me to examine them. I did examine one of them; the other was very much intoxicated. While I was examining him the admiral said, "Now, Parker, you are at the right point—your questions are very proper." When the examination was finished, they were sent on board the *Sandwich*, and put into confinement, and the next day they were sent to their respective ships, and I knew no more about them. I submit it to the judgment of the court whether it is probable that four men, unarmed, could forcibly take these men away in the face of a garrison? But throughout the whole of the business I treated Admiral

Buckner with as much respect as the nature of the transaction in which I was employed would admit. I must here state that there was a conversation improperly represented. The admiral said to me, "Parker, consider my feelings." I replied to him, "Sir, it gives me great pain to see the red flag flying in place of yours. I had nothing to do with it,—I have my feelings as well as another man; but I am but an individual." Throughout the whole of this business I wish to acknowledge that Admiral Buckner and Commissioner Hartwell were indefatigable in their endeavours to satisfy the minds of the sailors.

"Lieutenant Justice, of the *Sandwich*, was the second witness that was called. He knew nothing personal about me. Captain O'Bryen, of the *Nassau*, knew nothing about me. Captain Fancourt, of the *Agamemnon*, knew nothing personal about me. Captain Cobb, of the *Lion*, knew nothing of me. Captain Parr of the *Standard*, knew nothing personal of me. Captain Watson, of the *Isis*, and Captain Hargood, of the *Leopold*, knew nothing personal concerning me; and therefore, I have no observations to make upon their evidence. The next witness called was Mr. Snipe, surgeon of the *Sandwich*: He deposed, that on the 14th of May he was ordered to attend on deck, to be present at the punishment of a man of the name of Campbell, and that I ordered him to receive a dozen lashes. I was then upon the gangway, and had been sent there by the delegates to see the punishment executed. Mr. Bray, the master, who had then the command of the ship, was consulted about the punish-

ment. The man had been convicted of getting beastly drunk, though he had said he had drunk nothing but small beer. I was then desired to caution the ship's company not to get drunk till the business was settled; for if they did, they would undergo the same punishment as this man, which was what they had all agreed to inflict. With respect to his evidence about the sick man in irons, he was confined for disrespect to Captain Moss; and the answer which he states was given by me to him shows that he did not wish to interfere in the medical department. He says, also, that he was desired by me to use his influence with Admiral Buckner, that the whole sick of the fleet should be permitted to go on shore. This shows that we had a great regard for the sufferings of our fellow-creatures. Doctor Snipe further says, that when he went on shore he promised to return, but that he took good care not to do it till the ship was again under the command of Captain Moss. I wish here to ask whether it was praiseworthy and humane in the surgeon to leave the ship, when there were so many people dangerously sick on board, merely because his situation on board was not so comfortable as he could have wished? Captain Surridge, of the *Iris*, says he saw me with the delegates at the Commissioner's house, in conversation with the admiral, and that I delivered the articles from the North Sea fleet. I declare, in the most solemn manner, that I had no conversation upon that occasion, but desired the Commissioner to examine the delegates of that fleet, in order to find out what would satisfy the minds of the men in that fleet. He says he saw no disrepect

in my behaviour to the admiral. Captain Dickson of the *Espion's* evidence is answered by the observations I made upon the evidence given by the Admiral. Captain Wood, of the *Hound,* says that I told him not to be so violent with the delegates. I went on board the ship to secure his safety, for he had threatened to put the delegates to death. I desired the ship's companies to be attentive to their officers, and not to make any slight or unfounded complaints of grievances. He says he was ordered out of his ship, and that the person who communicated the orders to him said it was by my direction. I declare solemnly, that I could safely assert, if I was going into the presence of God to-night, that I gave no such order; and that I did not know he was turned out of his ship, till I heard it stated in evidence in court. With respect to what he says of my having threatened to make beef-steak of the pilot at the yard-arm, for having put us into a foul berth, I deny having used any such expression, or that I ordered the anchor to be let go. With respect to the yard ropes, they were rove before I got on board; but in the confusion that necessarily prevailed, it was very easy for the captain to have mistaken the time of these circumstances happening, and the identical person who ordered them. Lieutenant Flat, of the *Sandwich,* said he did not know me before the disturbance broke out on board that ship; but, as I shall have occasion to ask that gentleman some more questions, I shall make no observations upon his evidence at present. William Levingstone, the boatswain of the *Director,* says: I was on board the *Director* when she fired on the *Repulse*

while she was on shore; that I asked for a boat, with a flag of truce, to go on board that ship, in the hopes of being able to save innocent blood, and that I valued not my life. He says, also, that he heard me give the orders to fire, and that after it had commenced he did not see me. Samuel Hallard, the carpenter of the *Director*, says he saw me on board that ship, and heard me ask for the boat, to prevent, if I could, innocent blood from being spilt; that he heard the guns fired, but did not hear me give orders for it. The evidence of both these witnesses applies to the same time and the same facts; therefore my answer applies equally to both. In the first place it is necessary for me to account for my being on board the *Director* at that time: there was a request for our band of music to sail round the different ships, and play three tunes—viz., "God save the King," "Rule Brittania," and "Britons strike Home"—and also that we should show the journal of our proceedings. I was directed by the delegates to comply with these requests. While I was in the boat I was told that the *Repulse* was getting under weigh, and was advised to go on board the *Sandwich*. When I got on board I was told that the *Director* was getting a spring upon her cable, in order to bring her broadside to bear upon the *Repulse*. I was then ordered by the delegates to go on board the *Director;* I went, and found the guns upon the quarter-deck loosed. I then desired permission to address the ship's company, and pointed out to them the impropriety and cruelty of one brother firing upon another, and asked for a boat and a flag of truce to endeavour to prevent the consequences

of such a measure. Finding myself refused, I determined to find out to what extremities they were inclined to go, and therefore I asked them if they would slip their cables and run alongside the *Repulse;* I was extremely happy to find they would not do it, for I proposed it merely to sound their intentions. I will now state to the court my reason for asking for a flag of truce. As the wind was favourable and the tide was rising I expected every minute to see the *Repulse* get afloat, and make for Sheerness harbour. I wished, if possible, to get into her wake with the flag of truce to prevent her being fired at; for I hoped the other ships would respect the flag of truce, and not fire upon the *Repulse* for fear of hurting her. I failed in my endeavours, and was obliged to give way to the storm, and to sanction measures which I abominated; and the orders I gave on that occasion were extorted from me by compulsion: I remained in the *Director* till she ceased firing, in hopes of catching a favourable moment for softening matters; it is clear, therefore, that Burry must have mistaken some other person who might be at the gun with him, and might have used such language, for I will prove that I was on the *Director* till the afternoon. Burry says that he saw me on board the *Monmouth* that day, and that I assisted in pointing and fitting the gun at which he was six or seven times; and that I was not content with firing a nine-pound shot, but that I put in a crowbar. He speaks of being confined in different parts of the ship by a man called Captain Vance; and that I shook my fist when the *Repulse* was afloat, and said, "D—n me, she is afloat;"

and that I would send one of the outside ships after the *Leopard* and send her to hell. On asking him if he had received any bribe or promise for giving this hellish account, he said he had not. I went back to the *Sandwich* in the *Ardent's* boat. John Summerland does not recollect seeing me at any gun, or actively employed with my clothes off; but he says that I said I would get an outside ship and send her after the *Leopard.* In this particular both the witnesses agree; but I will call witnesses to prove to the court that I was not on board the *Monmouth* while she was firing at the *Repulse;* and under the general confusion that must have prevailed at such a moment, it cannot be supposed that I had either leisure or inclination to go looking for such Don Quixote-like adventures. I saw the *Monmouth* very active in firing upon the *Repulse,* and took the same measures with that ship that I had done with the *Director.* If I said I would take an outside ship and send her after the *Leopard,* it was with a view of preventing the *Monmouth* from quitting her station to attack the *Repulse,* for I immediately went on board the *Sandwich.* Before the *Sandwich* was delivered up to her officers, the *Montague* made a signal for the delegates to assemble on board her; I did not go on board; their proceedings were extremely violent. Having now closed the remarks I had to make upon the evidence that has been given against me, I have only a few words to address to the court, not to remind them that where mercy can be shown it ought to be granted; but, assured from the candid manner in which the court has proceeded that justice

will be done, I have only to ask that the evidence given by G. Burry may be examined in the strictest manner. I ask this for the purpose of clearing up my character, which is far dearer to me than a thousand lives; and though it has been misrepresented in the public prints, I hope the innocence of my intentions will appear. My country allows me justice; and justice I am sure I shall have from this honourable court."

The prisoner then proceeded to examine his own witnesses, who were—the Right Hon. Lord Northesk, captain of the *Monmouth;* Captain John Knight, of the *Montague;* Mr. J. Swanson, gunner; Matthew Hollister, seaman of the *Director;* Thomas Burry, William Nobbs, and George Nicholls, seamen of the *Monmouth;* Samuel Beer, of the *Monmouth;* Matthew Hollister. Their evidence was but immaterial.

The evidence being closed, the President desired to know if there were any other witnesses, as the court would willingly continue its sittings to a late hour in order to get their testimony. The prisoner answered that he had no more evidence to examine. He hoped the circumstance of his giving up the command of the ship, and the other parts of his conduct, would receive the most favourable construction. At half-past one the court was cleared, and, at ten minutes before four, the prisoner being called in, the Deputy Judge-Advocate read the sentence of the court. After the commission under which the court sat had been read, it stated that it had proceeded to try Richard Parker on the charge of mutiny, disobedience of orders, and insolence to his officers; and that the said Richard Parker had been

heard in his defence. The court did adjudge, that the whole of the said charge was fully proved, and that the said Richard Parker was guilty of the said crimes which it enumerated—crimes as unprecedented in their nature as wicked and destructive in their consequences. The court did, therefore, adjudge him, the said Richard Parker, to be hanged by the neck till he was dead; and the said Richard Parker was ordered to suffer death accordingly.

Prisoner: "I shall submit to your sentence with all due respect, being confident of the innocence of my intentions, and that God will receive me into favour; and I sincerely hope that my death will be the means of restoring tranquillity to the navy, and that those men who have been implicated in the business may be reinstated in their former situations, and again be serviceable to their country."

President: "The court, in consideration of the repentance which is necessary to expiate your heinous offences, is willing to grant you some time for that purpose, and has not, therefore, ordered the sentence to be put into immediate execution, but leaves it to the Admiralty to appoint when and where you are to suffer."

The prisoner bowed, and withdrew.

The behaviour of the unhappy man throughout the whole of his trial was firm and manly, and, while he was before the court, decent and respectful. During the trial the solicitor of the Admiralty received two letters for Parker, in one of which, from his brother, was enclosed a five-pound bank-note. They were delivered to him immediately in court.

The execution of Parker took place on the 30th June, 1797. On that day, at eight in the morning, a gun was fired from his Majesty's ship *L'Espion*, lying off Sheerness garrison, Vice-Admiral Lutwidge's flag-ship; and the yellow flag, the signal of capital punishment, was hoisted, which was immediately repeated by the *Sandwich* hoisting the same colour on her fore-top. The *Sandwich* was stationed rather above Blackstakes, the headmost ship of the fleet. The garrison was immediately under arms on the gun firing, and proceeded in single files along the south shore of the Medway, near to Queenborough, to be present at the execution. All the gates were then shut, and each ship sent a boat off, with a lieutenant and a party of marines, to attend the *Sandwich;* and the crews of all were piped to the forecastle, and the marines drawn up on the quarter-deck, to be witnesses of the execution. The prisoner was awakened a little after six o'clock from a sound sleep by the marshal-provost, who, with a file of marines, composed his guard. He arose with cheerfulness, and requested permission might be asked for a barber to attend him, which was granted him. He soon dressed himself in a neat suit of mourning (waistcoat excepted), wearing his half-boots over a pair of black silk stockings. He then took his breakfast, talked of a will he had written—in which he bequeathed to his wife a little estate he said he was heir to—and after that lamented the misfortunes that had been brought on the country by the mutiny, but solemnly denied having the least connection or correspondence with any disaffected persons on shore; and declared that it was chiefly owing

to him that the ships were not carried into the enemy's ports. On his coming on deck he looked a little paler than common, but soon recovered his usual complexion. The chaplain told him that he had selected two appropriate psalms; to which the prisoner desired to add the 51st, and then recited each alternate verse in a manner peculiarly impressive. He heard the preparatory gun fired, at nine, without the smallest emotion; and prayers being ended, he rose, and asked Captain Moss if he might be indulged with a glass of white wine, which being immediately granted, he took it, and lifting up his eyes, exclaimed, "I drink first to the salvation of my soul! and next to the forgiveness of all my enemies!" Addressing himself to Captain Moss, he said "he hoped he would shake hands with him," which the captain did. He then desired "that he might be remembered to his companions on board the *Neptune*, with his last breath entreating them to prepare for their destiny, and to refrain from unbecoming levity." His arms being now bound, the procession moved to a platform erected on the cat-head, with an elevated projection. There Parker knelt with the chaplain, and joined in some devout ejaculations, to all which he repeated loudly, "Amen." He now asked the captain "whether he might be allowed to speak," and immediately, apprehending his intention might be misconceived, he added, "I am not going, sir, to address the ship's company; I wish only to declare that I acknowledge the justice of the sentence under which I suffer, and I hope my death may be deemed a sufficient atonement, and may save the lives of others." He now requested a minute to collect

himself, and knelt down alone for that space of time; then rising up, said, "I am ready," and, holding his head up with considerable dignity, said to the boatswain's mate, "take off my handkerchief" (of black silk); which being done, the provost-marshal placed the halter over his head (which had been prepared with grease), but, doing it awkwardly, the prisoner said rather pettishly to the boatswain's mate, "Do you do it, for he seems to know nothing about it." The halter was then spliced to the reeved rope. All this being adjusted, the provost attempted to put a cap on, which he refused; but on being told it was indispensable, he submitted, requesting that it might not be pulled over his eyes till he desired it. He then turned round for the first time, gave a steady look at his shipmates on the forecastle, and, with an affectionate smile, nodded his head, and said, "Good bye to you." He now said, "Captain Moss, is the gun primed?" "It is." "Is the match alight?" "All is ready." On this he advanced a little and said, "Will any gentleman be so good as to lend me a white handkerchief for a signal?" After some little pause, a gentleman stepped forward and gave him one; to whom, bowing, he returned his thanks. He now ascended the platform, repeated the same question about the gun, evidently to gain the time he wished, for the perfect completion of what he had preconcerted in his own mind; then, the cap being drawn over his face, walking by firm degrees up to the extremity of the scaffold, he dropped the handkerchief, put his hands in his coat-pockets with great rapidity, and at the moment he was springing off, the fatal bow

gun fired, and the reeve rope catching him ran him up, though not with great velocity, to the yard-arm. When suspended about midway, his body appeared extremely convulsed for a few seconds, immediately after which no appearance of life remained. The instant he was visible to the garrison from the yard-arm, the telegraph was put in motion to announce it to the Admiralty, and from the clearness of the atmosphere and quickness of working, the advice must have been received in seven minutes. He suffered exactly at half-past nine, and was lowered down after hanging at the yard-arm a full hour; when the yellow flag was struck, and his body instantly put into a shell that had been prepared for it, with all his clothes on; and soon after it was taken in one of the *Sandwich's* boats, and rowed to the east point of the garrison, and there being landed was carried to the new naval burying-ground at Sheerness, out of the Red Barrier Gate, leading to Minster; the coffin-lid was here taken off in the presence of the spectators for a few minutes. His countenance appeared not much altered, but his eyes were wide open. He was interred exactly at noon. The whole conduct of this awful ceremony was extremely impressive. It was evident, from the countenance of the crew of the *Sandwich,* that the general feeling for the fate of their mutinous conductor was such as might be wished; not a word, and scarcely a whisper, was heard.

Parker's body was not allowed to rest in the naval burying-ground, in consequence of an affecting incident. His wife, it seems, was in Scotland when the Nore mutiny broke out, and on hearing that her husband was the

ringleader, she hastened to London to endeavour to dissuade him from pursuing his guilty career. She arrived too late; Parker was tried and condemned; and she only reached Sheerness in time to witness his execution from a boat which approached the *Sandwich* as near as it was permitted. She saw her husband appear on deck between two clergymen. She called on him, and he heard her voice, for he exclaimed, "There is my dear wife from Scotland." Immediately afterwards she fell back in a state of insensibility, and did not recover till some time after she was taken ashore. She was excited almost to madness by the information that the surgeons would probably disinter the body that night. She therefore resolved on the following plan:—She hung about the churchyard till dusk, and then she contrived with some friends to scale the churchyard wall, and went to her husband's grave. She there had the coffin dug up, and the lid removed, and after clasping the cold hand of Parker, she got several men to undertake the task of lifting the body. This was accomplished successfully, and at three o'clock in the morning, the shell containing the corpse was placed in a van and taken to Rochester, where, for the sum of six guineas, Mrs. Parker procured another waggon to carry it to London. On the road they met hundreds of persons all inquiring about and talking of the fate of "Admiral Parker," as the common people called him. At eleven P.M. the van reached London; here the widow stopped at the Hoop and Horse Shoe, on Tower hill, which was full of people. A great crowd by-and-by assembled about the house, anxious to see the body of Parker. The Lord Mayor heard of

the affair, and came and asked the widow what she intended to do with her husband's remains. She replied, "To inter them decently at Exeter or in Scotland." The Lord Mayor said the body would not be taken from her, but prevailed upon her to have it decently buried in London. Arrangements were made with this view, and finally the corpse of Parker was inhumed in Whitechapel churchyard, although not until it had to be removed to Aldgate workhouse, on account of the crowds attracted by it, which caused some fears lest "Admiral" Parker's remains should create a public commotion.

The *Gentleman's Magazine* for 1797 thus records this singular affair:—

"The body of Parker, the mutineer, which was taken out of the new naval burying-ground at Sheerness, was brought to the Hoop and Horse Shoe public-house, Queen-street, Little Tower-hill, on Saturday evening. So large a concourse of persons assembled before the house next day, that a party of constables were stationed there, in order to keep the mob from breaking into the house; and the corpse was removed in the afternoon to the workhouse, in Nightingale-lane, by order of the parish officers. Mrs. Parker was taken before the sitting magistrates in Lambert-street, and examined touching the object of her taking up the body. Her answer was, 'For the purpose of a more decent interment.' It was buried this morning early in the vaults of Whitechapel church."

Mrs. Parker long survived her husband, and latterly fell into distress; and among other relief received by her was at one time £10, and at another £20, from King William IV.

In the year 1797 lay in his death-illness the master spirit of that political period, the Right Hon. Edmund Burke, who, heart-broken at the loss of his only son, took no further interest in the concerns of private life, but devoted his whole mind to the state of public affairs. Amid the startling and depressing news of Napoleon's triumphant campaign in Italy, the victory of St. Vincent somewhat revived Burke's spirits, but then these naval mutinies came to sadden him again—to sadden but not to subdue him. The ministry of the day sought counsel and courage from the dying man's energy. One of the conferences of Government with him is thus referred to in an able biography of Wilberforce:—"During the awful crisis of the mutiny, he (Wilberforce) saw the last gleams of (take him for all in all) the greatest luminary of the eighteenth century." Wilberforce, in his own diary, says:—"Monday, April 17.—Heard of Portsmouth mutiny; consultation with Burke . . . The whole scene is now before me. Burke was lying on a sofa much emaciated, and Windham, Laurence, and some other friends were around him. The attention shown to Burke by that party was just like the treatment of Ahithopel of old; it was as if one went to inquire of the oracle of the Lord."

In one of his last letters, dated May 12, 1797, Burke thus refers to the mutiny at the Nore:—"The times are so deplorable that I do not know how to write about them. Indeed, I can hardly bear to think of them. In the selection of these mischiefs . . . are those of the navy and those of Ireland . . . As to the first, ... I trust in God that these mutineers may not,

as yet, have imbrued their hands deeply in blood. If they have, we must expect the worst that can happen."

Burke's spirit revolted at what he thought he perceived—viz., that the mutiny at home and the French abroad were making the British Government lose courage. A short time before his decease he used these remarkable words: "Never succumb to these difficulties. It is a struggle for your existence as a nation, and if you must die, die with the sword in your hand. But I have no fears whatever for the result. There is a salient living principle of energy in the public mind of England which only requires proper direction to enable her to withstand this or any other impending danger." Burke spoke with the foresight of a prophet; the mutiny subsided even before he breathed his last, and, not long after, naval successes restored public confidence. Justice was satisfied by the execution of Parker and a few other executions, and by some minor punishments. The British navy soon showed that it possessed its "living principle of energy." The sailors speedily redeemed themselves, and wiped away the recent stigma with victory upon victory. The battle of Camperdown was won in the October of this same 1797. King George III., on the 30th of that October, visited the fleet, and the victor of Camperdown, Admiral Lord Duncan, at the Nore, and the royal clemency was extended generally to such mutineers as still remained under sentence. The following year the Nile was won. These triumphs were "happy prologues to the swelling act of the imperial theme"—Trafalgar. Yet while, through the halo of these

glories, we look, less angrily, back to the sad insubordination that preceded them, we may offer up a fervent prayer that, for the honour and vitality of our navy, no such outbreak may ever occur again as the mutiny at the Nore.

THE TRIAL OF GOVERNOR WALL.

JOSEPH WALL, the unfortunate subject of the following trial, was the scion of a very respectable Irish family, and was the eldest son of Garrett Wall, Esq., of Derryknavin. He was born in 1737, and entered the British army at an early age. He was a brave and honourable man, but of a severe and rather unaccommodating temper, and was not popular among the officers and men, though he rapidly advanced in his profession, having obtained early promotion for the gallantry he displayed at the reduction of the Havannah in 1762. It was while Lieut.-Colonel and Governor and Commandant of Goree, an island on the coast of Africa, that he committed the offence which brought him to the scaffold—viz., the murder of one Benjamin Armstrong, by ordering him to receive eight hundred lashes on the 10th July, 1782, of which he died in five days afterwards. Wall's emoluments were, at the time, very considerable, as, besides his military appointments, he was Superintendent of Trade to the colony. His family was Roman Catholic, but, according to the exigency of the then penal laws, he had to conform to Protestanism, to enable him to hold his commission.

Some time after the account of the murder of Arm-

strong reached the Board of Admiralty, a reward was offered for Wall's apprehension, who had come to England, and he was taken. He, however, contrived to escape while in custody at Reading, and fled to the Continent, and sojourned there, sometimes in France and sometimes in Italy; but mostly in France, under an assumed name, where he lived respectably and was admitted into good society. He particularly kept company with the officers of his own country who served in the French army, and was well known at the Scotch and Irish colleges in Paris. He now and then incautiously ventured into England and Scotland. While thus, at one time in Scotland, he made a high match. He wedded a scion of the great line of Kintail—viz., Frances, fifth daughter (by his wife, Lady Mary Stewart, daughter of Alexander, sixth Earl of Galloway) of Kenneth MacKenzie, Lord Fortrose, M.P., and sister of Kenneth, last Earl of Seaforth. Wall came finally to England in 1797. He was frequently advised by the friend who then procured him a lodging to leave the country again, and questioned as to his motive for remaining; he never gave any satisfactory answer, but appeared, even at the time when he was so studiously concealing himself, to have a distant intention of making a surrender, in order to take his trial. It is very evident his mind was not at ease, and that he was incapable of any firm resolution either one way or the other. Even the manner in which he did at last surrender himself showed a singular want of determination, as he left it to chance whether the Minister should send for him or not; for rather than go and deliver

himself up, he wrote to say "he was ready to do so"—a less becoming, but not a less dangerous mode of encountering danger. His high-born wife showed him throughout his troubles the greatest devotion: she was with him in Upper Thornhaugh Street, Bedford Square, where he lived under the name of Thompson when he was apprehended. It is most probable that, had he not written to the Secretary of State, the matter had been so long forgotten, that he would never have been molested; but once he was in the hands of the law, the Government had but one obvious course, which was to bring him to trial. This was accordingly done, and the judicial investigation took place, at the Old Bailey on the 20th January, 1802. The judges who presided were—The Right Hon. Sir Archibald MacDonald, Lord Chief Baron of the Exchequer; the Hon. Sir Soulden Lawrence, one of the justices of the Court of King's Bench; and the Hon. Sir Giles Rooke, one of the justices of the Court of Common Pleas.

The counsel for the Crown were the Attorney-General, Sir Edward Law (afterwards Lord Ellenborough and Lord Chief Justice of the Court of King's Bench); the Solicitor-General, the Hon. Spencer Perceval (afterwards First Lord of the Treasury, and, while so, assassinated by Bellingham); Mr. Wood (afterwards Sir George Wood and a baron of the Exchequer); Mr. Plumer (afterwards Sir Thomas Plumer, and successively Vice-Chancellor of England and Master of the Rolls); Mr. William Fielding (afterwards a metropolitan police-magistrate, son of Henry Fielding, the novelist); and Mr. Abbott (afterwards Lord Chief

Justice of the Court of King's Bench and Lord Tenterden).

The counsel for the defence were Mr. Knowlys (afterwards Recorder of London), Mr. Gurney (afterwards Sir John Gurney, a baron of the Exchequer), and Mr. Alley.

The indictment was opened by Mr. Abbott; and while he was stating the charge, the prisoner from the dock said to the Chief Baron, "My lord, I cannot hear in this place; I hope your lordship will permit me to sit near my counsel." In which the Chief Baron replied, "It is perfectly impossible; there is a regular place appointed by law—I can make no invidious distinctions."

The Attorney-General stated the case for the prosecution in a remarkably able and lucid speech, which so fully details the whole horrible affair, that I cannot do better than give the greater portion of it. After a few preliminary remarks on the nature of the crime, the Attorney-General's address proceeded as follows:—

"Gentlemen of the jury,—The crime imputed to the prisoner I have stated to you to be murder; the prisoner is charged, upon the present indictment, with the murder of a person of the name of Benjamin Armstrong, who was a soldier and serjeant in the garrison at Goree, of which the prisoner at the bar was, at the time of Armstrong's death, the commander and governor. The circumstances that led to the punishment which was the cause of the death of this person it will be for me presently to state to you; and it will be for me, after I have so done, to discuss in some manner that which is the probable, and which is not only the probable, but

which, from circumstances antecedent, I know to be the actual, ground of defence which the prisoner will rely upon before you for his deliverance this day.

"Gentlemen, Mr. Wall was, in the year 1782, commandant of the garrison of Goree, which is an island upon the coast of Africa; he had under him in command there a Captain Lacy, who afterwards succeeded him in the command of that garrison; he had under him, likewise, a Lieutenant Fall, a Lieutenant O'Shanley, an Ensign Ford, and Ensign Deering; these, with Major Phipps, an officer of artillery, were, I believe, all the military officers then at the place—at least, it does not occur to me, at present, to mention any other military officer as then being there.

"The circumstances of the case now before us, you will recollect, arose in the year 1782; the 10th of July, 1782, is the time when that death was occasioned which is imputed to the prisoner at the bar as murder. The prisoner returned to this country in the month of August, 1782; he was apprehended for this offence in the month of March, 1784, under a warrant from the Privy Council. You will bear in mind, gentlemen, that most of the persons who, in respect to their local and official situations, were the most material witnesses to establish his innocence—if innocent he be—were living, and within the reach of process from the criminal courts of this country, and might have been then brought forward to establish his vindication, if, by such evidence, he felt that he could have been vindicated from the charge now under your consideration.

"In the year 1782, this gentleman had a garrison

under his command, as I have stated, in which there were the several officers whose names and whose commissions I have already mentioned; I believe the whole military force under his command consisted of at least 140 or 150 men. The garrison had been, for some time prior to the period at which he announced, in public orders, that he was about to depart from the garrison (and which departure was so announced as immediately about to take place on the 11th of July), put under short allowance in point of provisions. That measure was, I presume, adopted from fair and proper reasons of prudence and probable necessity. The men who had been put under such short allowance, and who were thus restricted in point of supply, in the articles of usual and necessary consumption, with a view to general convenience and the eventual safety of the garrison, and in order merely that the existing stock of provisions might last out till a farther supply might arrive, were at all times very properly allowed some compensation of a pecuniary kind, on account of their reduced allowance in point of actual provisions. The gentleman at the bar had announced his departure, as I stated before, for the 11th of July; there was also about to depart, at the same time, with him for England, the ensign of the name of Deering, the paymaster of the garrison. In the hands of that person were, of course, these stoppages, and these stoppages were usually commuted with the men, and compensation made to them on account thereof, either in money or in that which was, for the purpose of supplying their immediate necessities, equivalent to money—that is to say, articles of convenient

barter and truck at that place. When Ensign Deering, the paymaster, upon whom the garrison had demands for their short provisions, was so about to depart, the garrison was, of course, anxious that their account with him might be settled; and as the period of his departure drew so near, it will be given you in evidence that a considerable number of the soldiers who had demands of this kind had resorted to the house where the paymaster lived, in order to obtain the payment of them. For what reason Governor Wall mixed himself in the consideration of these short allowances—what personal reasons he might have to interpose himself between these men and the application for a settlement and adjustment of the claims made by them on this account, I am not apprised—at least, I shall not suggest any to you. The application was made, as I have stated, by those persons in considerable numbers; they resorted to the house of Mr. Deering, and were desirous of having satisfaction for their pay before he should leave the island, which was to be on the day following. After that period a vast ocean would separate them from their debtor; and, considering the precariousness of human life, and particularly in that unhealthy settlement, if they did not press their demand at that period, it is possible they might not be in a situation afterwards to urge it with any beneficial effect to themselves.

"Upon their coming in a considerable number, as you will have it in evidence, towards the house of the paymaster, and when, in doing so, they passed by the governor's house (who lived in the way to the paymaster's), and were going on to the paymaster's, it

appears that Governor Wall came out, and with language of some anger reprehended the men for resorting to the house of the paymaster upon this occasion, and ordered them, with some menaces of punishment, to go away; the men, as it is stated to me, and as I shall lay it before you in evidence, retired dutifully upon this admonition. About an hour and a-half afterwards, several persons came; whether they were the same who came before I know not, but one of them was the deceased Armstrong, whose death, and the causes of whose death, are alone now in question before you,—I say alone, for I would wish and desire you to lay out of your consideration any circumstances which point at the supposed death of any person. If you happened to be in court, and heard any indictments read, upon any former occasion, which were applicable to the deaths of any other persons, I request you to lay that matter wholly out of your attention; for we are to confine our attention merely to the circumstances and cause of the death of Armstrong, and no other circumstances will be gone into but such as are immediately connected, in point of fact, with the death of that person. If, indeed, subsequent transactions connecting and inseparably mixing themselves with matters which respect the deaths of other persons should necessarily, in point of fact, make a part of our proof in respect to the charge now before you, these facts are not shut out from us, in point of legal use and application, because they may conduct to, or in themselves make a part of, the proof of any other substantive crime conjointly with the present: but no substantive crime, except the one charged

in the indictment, and which you are sworn to try, can come immediately and properly under your consideration for the purpose of affecting the prisoner upon this occasion.

"Gentlemen, I have stated the appearance of the soldiers upon their first application. Upon a second application to the paymaster for their pay, Armstrong (the deceased) appeared with the persons who were making that application. Governor Wall came out to them again from his house, and I do not think that, upon this occasion, he used the language of menace which he did before, but he spoke to the deceased Armstrong; and Armstrong, as it will be given you in evidence, by a person who had the best means of knowing and seeing all that passed, being the orderly serjeant immediately attendant upon the person of the governor the whole of that day, this person of the name of Armstrong, so far from behaving in any undutiful and disrespectful manner, or from manifesting any disregard to the command of his lawful superior, pulled off his hat, and bowed with all proper deference to him; and then, without entering into any contest as to the right to make the application they were about to make, having merely stated that they came there in order to settle with the paymaster, upon receiving an intimation from the governor that what they were doing ought not to be done, he respectfully retired; and from that period (if there be truth in the evidence I have to lay before you) till the period of the punishment which was afterwards on that day inflicted upon Armstrong, and which punishment is charged to have been the cause of his death,

there did not exist in the place the least symptom of tumult, discontent, riot, disorder, or anything that bore the appearance of mutiny, or disobedience to the lawful commands of a military superior. . . .

"The application for pay was made in the morning by the soldiers to the paymaster, who was about to depart; there was an interval, respecting which it will certainly be incumbent upon Governor Wall to give some account in evidence, and to show that it did not entirely pass in tranquillity and quiet. Why, if there was anything that required investigation, was it not filled up and occupied, as far as it might be, by some forms of trial? Upon this subject there is an entire silence. We hear nothing with respect to these men, or to any transaction in the island in which Governor Wall is concerned, till the evening or towards the evening of that day. Somewhere towards six o'clock, I think, it will be in evidence that the drum beat what they called 'the long roll,' which was for calling the soldiers upon the parade. The orderly serjeant who attended Governor Wall will state to you that this was beat by Governor Wall's direction; the men who immediately attended were ordered to fall into their ranks as they were, unarmed; several in their jackets, as they happened to be, without waiting for that preparation in point of dress which would have fitted them for their ordinary appearance upon the parade upon any other occasion; they were then ordered to form a circle upon the parade, Captain Lacy, Lieutenant Fall, Ensign Ford, and Lieutenant O'Shanley being present. The circle being formed, the witnesses will state that some

conversation passed, in their presence, between the officers, there being, I think, at the same time, brought forward upon the parade a gun-carriage, and persons attending to perform the office which was presently afterwards performed by them.

"After a short communication (a few words only having passed) between the governor and the officers assembled there, whom I have already mentioned, this man, Armstrong, was ordered by Governor Wall to be stripped. He was accordingly stripped, and was then tied to the gun-carriage; black men came forward—not the persons who usually apply military punishment, but black men came forward—and began to inflict the punishment which was ordered; they changed about, each took his turn; each, I think, inflicting twenty-five lashes, till the number of eight hundred lashes had been completely inflicted upon the body of this unfortunate person. Punishments of this sort are usually inflicted by drummers or other soldiers of the regiment. It was in this instance, you observe, inflicted by black men ordered to attend there for that purpose; and this punishment was not inflicted with the usual instrument with which military punishments are inflicted, which is a cat-o'-nine-tails, formed, as I understand, of a log line of about one-eighth of an inch in thickness, but with a rope of one inch in diameter; one of the very ropes used on the occasion, or one at least exactly resembling it, but I believe one of the ropes themselves (and from circumstances I have little reason to doubt its identity), will be exhibited to you in evidence. During the time of inflicting this punishment, I am

instructed it will be proved to you that Governor Wall urged these black men to the performance of their task in language which it will be enough for you to hear once from the mouths of the witnesses; very harsh expressions are stated to have been used by him, some of which I would gladly be spared the mention of, that he several times called out "Cut him to the heart! Cut him to the liver!" that Armstrong begged for mercy, and that Governor Wall then said that the sickly season was coming on and that this punishment would do for him. That after receiving a great number of lashes Armstrong was conducted to the hospital; that he was in a situation which made it probable that his death would be the consequence of what he had suffered. Accordingly, at periods some time subsequent, you will hear that he made declaration, which, if they appear to be (and which will be a question for the judgment of their lordships) declarations made under the expectation and belief of an immediately impending dissolution, and with that solemn consciousness of duty which belongs to that awful situation, a situation which places the mind under sanctions at least tantamount in point of obligation to tell the truth, to what are impressed upon it by the solemnity of a judicial oath; you will in that case hear, as proceeding from this man, a declaration that he expected his death, and that he had been punished without any form of trial, and without having committed any offence whatever; this evidence, under the circumstances I have supposed, will be undoubtedly competent, and if it comes under those views, I shall be able to lay it before you.

"After this punishment had been inflicted upon Armstrong—I will not, however, travel into circumstances which relate to any other person; I close the business of the punishment, as far as respects Governor Wall, here. On the next day, as he had announced his intention to do, Governor Wall, together with Ensign Deering, the paymaster, an officer who is not now living, and Major Phipps, took his departure for England.

"There may be circumstances—it will be for Governor Wall to show that such circumstances existed—which may constitute a sufficient, adequate, and full defence for a military officer in the infliction of punishment without either a general or a regimental court-martial; for if there be that degree of imminent necessity which supersedes the recourse to any ordinary tribunal, if there be actually existing that flagrant mutiny which must either be suppressed by force, and by the immediate though irregular application of severe punishment, or must be left to rage uncontrolled at the utmost peril of public safety, that which I was just now pronouncing to be irregular becomes, if the more regular and appropriate course of proceeding in such cases cannot be resorted to, itself regular and capable of being justified upon every principle of public duty; for it imports the public safety that the means of resisting an enormous and over-bearing evil should be as strong, sudden, and capable of application as the evil itself is capable of immediate mischievous effect, and if this has been the case here it will carry its own justification with it.

"Gentlemen, upon this occasion, therefore, it will be

most important for the prisoner to establish that there existed, in point of fact, a mutiny. When he has established in point of fact (if he can do so) that there existed a mutiny, if he can go farther and show that the ordinary modes of trial could not be resorted to, and that upon conference with the officers, that which on the emergency was thought best to be done was done, and that there was no wanton abuse of power in the infliction of punishment, the prisoner will be entitled to go quit of the charge made upon him by this indictment. But if, instead of that, it should appear to you that there existed no crime in the deceased, that there was, in fact, no trial of him, where trial might have been had if crime had existed; if it shall appear to you that there was not only neither crime nor trial, but that, in addition to the absence of both crime and trial, there was much malignity of motive influencing the conduct of this gentleman to impute crime and to deny trial to this unhappy sufferer, I am afraid the contrary of that conclusion to which I was just now leading you must, in the proper discharge of your duty, become to . . .

"If the prisoner can make out such a defence, if he can make out substantially the crime of mutiny, I should be sorry to press him with the non-observance of any of the minor forms of trial, that is, supposing that there existed the crime of mutiny, and that the crime was announced to the party charged therewith, and that he had any opportunity for his defence against it. But if there existed no crime, if none was charged at the time, if a silence is observed by the prisoner respecting the existence of any such crime at the time when, upon his

return, he should have announced both it and the rigorous measures he had been obliged to adopt thereupon, to those to whom he was immediately accountable for the conduct of his government; if you find, in contradiction to the idea of any supposed mutiny, that he ventured to withdraw himself from his government at a moment when it would have been in violation of every duty which he owed his Majesty's service as a soldier and an officer so to have done, if a mutiny so dangerous as to supersede the necessary forms of law had existed on the very eve of his departure, and might be supposed not to have been even then fully suppressed, he will, in that case, have a difficult task of defence thrown upon him. If, however, he can, upon the whole, give reasonable evidence of delinquency on the part of the person upon whom this punishment was executed, and a reasonable degree of necessity for executing it at the time and in the manner and way in which it was executed, God forbid, not only for his own sake, but for the sake of the discipline of the army and for the safety of us all, which in some degree depends upon the due enforcement of order and obedience in every department of public service, God forbid that a hair of his head should be touched. But if, after all, the charge of mutiny shall evidently appear to you to be but a pretence brought forward to cover a malicious and unauthorised act on his part at the time when it was done; and if, from all the concomitant circumstances, if, from circumstances immediately consequent upon the act at the time of his return—if, from his flight shortly after that period, and his not proceeding to trial when the witnesses, who

he would have you to believe could have spoken immediately and effectually to his justification, were living and capable of being produced—if from these and other circumstances your minds shall be induced to form a conclusion wholly adverse to the prisoner; and if the facts shall fairly warrant you in so doing, however painful the result may be to the prisoner at the bar, his relatives, and friends; however painful the steps which lead to such result may be to the feelings of those who are now urging the demands of public justice against him; however painful it may be, more especially to you, gentlemen, upon whose verdict, as a jury of the country, that result will immediately depend—it is still my duty to ask, and your duty to give, that verdict which the facts of the case, and the due application of the law of the country to such facts may require, and to find him guilty of the crime charged upon him, if, in the conscientious discharge of the solemn function cast upon you, you are warranted and required so to do. It will give me great satisfaction if he is able to establish that there existed in this case such circumstances as will make the crime with which he is charged not entitled to be denominated and considered as murder."

The evidence adduced (of which I need only give some material points) bore out faithfully this opening statement of the Attorney-General, and was in nowise shaken by the able and severe cross-examination of the counsel for the defence.

Evan Lewis, the first witness called, stated that he was the orderly-sergeant at Goree on the 10th July, and that the men in their application behaved peaceably. He thus described the actual flogging of Armstrong:—

Were any orders given them when they came upon the parade?—*Lewis*: They were ordered to form into a circle.

Who ordered them?—I do not know whether it was Governor Wall that gave the order, or one of the officers. Governor Wall was there.

I think you said Captain Lacy was there?—He was.

Do you remember the names of any other officers that were there?—Mr. Ford was there, I believe, and Lieut. Fall and Lieut. O'Shanley were there also; I believe they were there before the end of the business; I do not know whether they were there at the beginning.

Did they form any part of the circle?—They were in the middle of it.

What size was the circle?—It was but small; there were not three hundred men there.

Was it formed one or two deep?—To the best of my recollection, two deep.

Do you know what the number of the whole garrison was at that time?—I believe not three hundred; I am almost sure it was not.

What situation were you in?—Close to the circle on the outside.

Where was the governor?—He was inside.

Were you near enough, were you in such a situation that you could hear what was passing within the circle?—I was; I heard some words that passed.

Could you see what passed?—Yes, very well; I was leaning rather between the men, with my head over, to listen and see.

What did you observe to pass within the circle when it was formed?—There was a carriage of a six-pounder brought in, I believe, just after the circle was formed.

Do you know who brought it in?—There were some blacks there, I saw, but I do not know whether it was they that brought it in or not.

Did you observe anything pass between the officers? —I saw the governor speak to the rest of the officers, but what they said I do not recollect.

Was the gun-carriage brought in before you observed the governor speaking to the officers, or after?—I cannot pretend to say.

Did you hear the governor say anything that you do recollect?—Not to the officers.

To any one else did you hear him speak?—Yes, I heard him call Benjamin Armstrong out of the ranks.

Where was Armstrong at that time?—Among the rest of the men in the circle, in his proper place.

Did he come out?—He did.

What happened when he came out?—He was ordered to strip by Governor Wall, and was tied up to the carriage of the cannon, and Governor Wall ordered him to be flogged, and he was flogged by black men.

Were more than one person employed in it?—There were five or six, to the best of my recollection; I believe six; they changed as the drummers in the army do; I cannot exactly tell how often; I believe about every twenty-five lashes.

Do you recollect how many lashes he received?—No, I do not; he had a great many.

Do you know how long it was about?—I cannot tell.

Were you near enough to see what the instrument was with which he was flogged?—It was a kind of rope.

Can you tell the size of the rope?—No, I cannot pretend to say now.

Was it the usual instrument of punishment?—No, I never saw any one punished before with a rope of that kind, nor by blacks before.

Were these blacks any part of the regiment?—They were not.

Did you ever see anybody punished in that way before, and with such an instrument?—I never did, neither before nor since.

Where was Governor Wall during the time that this punishment was inflicted?—He was in the circle just by the person that was punished, urging them to do their duty, and threatening them if they did not.

Do you recollect any expressions he made use of at the time?—I heard him say several times, "Cut him to the heart! Cut him to the liver!" I heard him say that several times.

Did you hear Armstrong say anything to him during the time the punishment was inflicted?—I believe he begged for mercy, but I do not remember the words.

Did the governor say anything to him?—I heard him say something during the punishment, but I am not certain whether it was to Armstrong or any of the others.

You do not recollect whether the expressions you remember to have heard from the governor were made use of during the punishment of Armstrong, or any other person?—I have not said what you mentioned; what I have said was during the punishment of Armstrong.

What became of Armstrong after the punishment? —I believe he was taken to the hospital between two men; I saw him going away from the circle.

At this time was there any appearance of mutiny or disobedience among the soldiers?—I did not see the least, nor hear of any.

Roger Moore, a private soldier at Goree in 1782, supplied the evidence as to the actual chastisement:—

With what sort of instrument was the punishment inflicted?—*Moore:* It was a rope.

Did you see the rope?—At a distance.

Could you form any judgment of the size of the rope? —It looked at a distance near upon an inch.

In diameter?—Yes.

Were there any knots in it?—Not that I know or ever heard.

What number of lashes were given?—Armstrong received eight hundred.

How do you know?—I counted them myself.

Lieutenant Poplett, of the African corps, an eye-witness of the flogging, though himself under arrest at the time, was in his evidence asked:—

After the circle had been formed, what did you see done to Armstrong? – *Poplett:* I saw Armstrong stripped, fastened to a gun-carriage, and flogged on his bare back by several black men, frequently changed, I believe, at every twenty-five lashes.

Can you tell how many lashes were inflicted?—I think eight hundred.

After these lashes were inflicted, what became of Armstrong?—I saw him supported towards the hospital.

Did you observe the rope that he was flogged with?—I did at a distance.

What might the distance be?—About forty yards, on an elevation of eleven feet.

Could you distinctly see what passed?—I could.

What sort of a rope was it that was used?—I can produce one.

Mr. Gurney: Is it the same rope that was used?—I had it on the evening of the 11th from one of the men who used it in the punishment of the 10th.

Mr. Gurney: That will not do.

Mr. Wood: Was it such a rope as that you have got there?—I believe it was.

Mr. Wood: Be so good as to produce that which you have. *(The witness produces a rope.)*

Mr. Wood: Did you observe whether the rope that was used was knotted at the end in the same manner as that is?—I could not at that distance say positively that it was, but I believe it was.

Is it usual to inflict punishment with a rope like that?—I never saw such a thing done in the army before.

What is the usual instrument of punishment upon those occasions?—A cat-o'-nine-tails composed of small cord; if severe, generally of small log-line; but, if moderate, generally whipcord.

Do you happen to know whether Armstrong had ever been tried or convicted of any offence before this punishment was inflicted?—Not about that time, to my knowledge.

Mr. Peter Ferrick, the surgeon, corroborated the proof as to the punishment, and he was then asked:—

Did you attend this man to the hospital after the punishment had been gone through?—*Ferrick:* Yes.

How long did he live?—It was done on the 10th, and I think he lived till the 15th.

Did you attend him from day to day after the punishment till his death?—Yes, twice a day.

What do you think was the cause of his death?—I have supposed, from that time to this, that the punishment was the cause of his death.

Lord Chief Baron Macdonald: By "supposed," do you mean that it is your opinion?—Yes.

Mr. Fielding: You said you did not arrive within the circle till the man was undergoing this punishment; therefore I will simply ask you, if, during the course of that day, or at that time, you saw any appearance of disorderly behaviour, tumultuous or mutinous?—Not the smallest.

Did you know of any?—Not any; I never heard of any till I heard it at the Privy Council the other day.

Were you near Armstrong shortly before the time of his death?—I visited him on the day on which he died.

If there are bruises occasioned by this instrument, is mortification more likely to ensue from that punishment being inflicted with this rope than with a common cat of nine tails?—Certainly; but that is reasoning from experience; I did not know that before.

Then, as a surgeon, looking upon this instrument as likely by its bruises to produce more mischief than a cat of nine tails, I ask what your opinion must necessarily be of a punishment to the extent of eight hundred lashes being inflicted upon a human body, whether the effect is not likely to be attended with death?—It is.

Mr. Justice Rooke: What was this man's state of health before he received this punishment?—I believe he was in so good a state of health that he was never in my hands at all.

William Rosser, assistant-surgeon, gave the following evidence:—

Was Armstrong brought into the hospital after receiving punishment?—*Rosser:* He was.

You attended him till his death?—Yes.

Did you ever learn from him before his death that he expected he should die?—Yes; he said that, the minute he came into the hospital, to the men that brought him in.

What did he say?—He said he had been punished, and that he should die, by order of Governor Wall, by black men, without a court-martial; that was what he said when he was brought in first.

Cross-examined by Mr. Gurney:—

He did not drink any spirits in the hospital with your knowledge, I suppose?—No, except the garrison allowance that was brought in.

How much was the garrison allowance?—Half a pint of brandy, or a pint of wine.

He had his garrison allowance while he was in the hospital?—Yes, either half a pint of brandy or a pint of wine each day.

That he had every day?—Yes.

That he drank it?—That I cannot answer for.

He had it?—Yes, and he might drink it.

Did you ever see him leave any?—Indeed, I cannot tell, for I did not examine his bottle.

For anything you know, he did drink it; he had it if he chose?—He had it if he chose.

Had you any reason to see, or to observe, that he hurt himself by drinking any quantity of spirits after he came into the hospital?—I had not.

Mr. Justice Lawrence: Did you at any time see him drink any spirits?—I cannot recollect.

Mr. Justice Rooke: Had you any order not to let him drink spirits?—I had not any orders not to let him drink his garrison allowance, for that came into the hospital, and he might do as he thought fit with it.

The prisoner thus spoke in his defence:—

"I shall endeavour to state to your lordships and the gentlemen of the jury in as brief a manner as possible the real facts of the case.

"Finding my health in a very precarious state, I determined, in July 1782, to give up the government of Goree, and return to England. On the 10th of July, I rather think the 11th, but I will confine myself to the 10th, I prepared to embark on board a ship for England to return to Europe; in the morning of the 10th, I had a certificate from the officers of the garrison that the arrears were cleared off, and was perfectly satisfied that the account was settled. On the 10th, about eleven o'clock in the morning, all the men of the corps that were off duty came to the government house; I went out to them; they made a demand of short allowance of provisions that was due to them from Captain Adams; I explained that business to them so fully that I had not a right to pay it, that the men, in a very short time, dispersed and returned to the barracks. About two o'clock

in the day they returned again very much intoxicated with liquor, and insisted on having the demand complied with. I expostulated with them for a length of time to no effect, and ordered Sergeant Armstrong to march the men back again to the barracks; he was then in the front, standing with his hat on; he refused, and said "he would be damned if he would until it was settled or the demand complied with." I ordered the whole of them to face to the left and march off to the barracks; the answer to that was, "they would be damned if they would not immediately break open the stores and satisfy themselves." Finding them seriously bent upon proceeding to extremities, and having no resource, if they had done so, nearer to me than England, I begged an hour or two to consider of it, and that I would give them an answer. They hesitated for some time, but at length they acquiesced, upon condition that I was not to leave the island till the business was settled. Armstrong then marched the men off without taking any further notice, shouting and making a very great noise, and saying that they had gained the victory.

"When I returned into the government house I sent for the officers of the corps; and in the interval, till the officers arrived, I walked out and was proceeding to the main-guard, to know the state of the garrison, to know if the main-guard were in support of those that were off duty. On my way I met Armstrong, Upton, Patterson, and several more, who told me that I had promised not to quit the island till they were satisfied, and that I should not go to the waterside until then. When I returned to the government house I found the officers

there, who all agreed that immediate punishment was necessary to put a stop to the mutiny. I ordered Lieut. O'Shanley to go to the drum-major to desire him to have cats ready when called for. Lieutenant O'Shanley returned and reported to me that the drum-major had told him that the cats had been destroyed, and that I had best get away as soon as I could, for that the men would not suffer any punishment to be inflicted upon any one of them, inasmuch as they were all agreed.

"Captain Lacy then proposed punishing them by the linguist and his assistants, which was acquiesced in by the other officers; from the time of the soldiers departing it took up some time, till about four o'clock, when I told Captain Lacy that I would go down to the main-guard and have the mutineers brought upon the parade, and for him to come down with the linguist and his assistants as soon as he found the ring formed, that the people at the barracks might not be alarmed at knowing they were going to receive punishment. Immediately upon the parade being formed, the officers arrived, and the circle was formed; Captain Lacy, Lieutenant Fall, Lieutenant O'Shanley, and Mr. Ferrick, the surgeon, were on the parade in a very short time after. When I came upon the parade I asked the men if they had any claim to make upon me. A man, whose name I do not recollect, came forward and said he had, of the short allowance money that was due to him from Governor Adams. I then called upon Armstrong, he having no claim whatever, to account for his mutiny; when Armstrong was standing forward, Ensign Ford came running to me from the main-guard to inform me that the man

that was confined was breaking from his arrest and was coming to the parade. I asked the ensign if he could not confine him; he told me he could not; that his guard would not obey him. Seeing there was no time to be lost to put a stop to it, I went off myself to the main-guard, and left Captain Lacy in charge of the parade. Upon the soldier seeing me coming he retired behind the guard that was turned out, in a manner as if he expected to be supported by the guard; but upon seeing me coming up to him, he was retiring, and I forced him into the guard-house. I was following him into the guard-house to see him well secured, when the sentry at the door clapped his bayonet to my breast and desired me to keep off, saying that I should not enter. I struck the bayonet out of his hand and put him prisoner with the other, and after having reprimanded the guard for disobedience of Ensign Ford's orders, I returned to the parade. I ordered the artillery to be on the parade this evening, as I was afraid of the African corps; it was a circumstance which never happened in the garrison—the artillery being upon the parade at a punishment of the African corps—before.

"Upon my coming upon the parade I ordered Capt. Lacy, Lieut. Fall, and Lieut. O'Shanley to form a court-martial. Mr. Ferrick was at this time upon the parade. Armstrong was brought forward and charged by me with the mutiny; but as I did not choose to take away their lives I chose to try them by a regimental court-martial; and indeed I had it not in my power to form any other. Whilst Captain Lacy and Lieutenant O'Shanley were trying Armstrong, I was outside the

circle; Captain Lacy came to me and reported that the court had sentenced Armstrong to receive eight hundred lashes. I returned into the circle and told the prisoner the sentence of the court-martial, which was, that he was to receive eight hundred lashes, to be inflicted by the linguist and his assistants with a small rope's end, which is a small cord that was produced upon the parade by the linguist and shown to the surgeon before Armstrong had felt it. The surgeon approved of the cord, by saying it was not so bad as a cat-of-nine-tails. The punishment was then inflicted upon Armstrong; there was no other mode of punishment in the garrison; the African corps never had a halberd delivered to them; tying the person to the timbers of a six-pounder was the usual mode. Armstrong received his punishment and walked away with little appearance of concern, and with very little appearance of punishment. I beg to know, my lord, if I am to go further with respect to the other people?"

Lord Chief Baron Macdonald: "No, we have only this single case before us at present."

Prisoner: "Armstrong, on the evening he was taken to the hospital, drank spirituous liquors, so as to be intoxicated. The day after this punishment, the sickly season advancing fast, I thought it was necessary for the preservation of my life to get away, the climate being very bad, and I having been for a length of time before very ill. I arrived in England some time in August in the same year. Upon my arrival at the Secretary of State's office, I found there had been a number of charges exhibited against me by Captain Crawford,

then a lieutenant of the African corps, and Mr.——. These charges upon trial about ten months after appeared to be totally groundless, and Captain Crawford was reprimanded highly by his Majesty for presuming to bring such charges against me; many of the other charges were found groundless, and very much exaggerated. As soon as the inquiry into these charges was over, I went down to Bath, and heard nothing farther, either of the punishment of the men, nor anything concerning them, until two messengers came down to me at Bath. The man who was the chief messenger told me he came down on a message to me from Lord Sidney. I asked him, in the presence of two people, if he had a warrant; he said he had not, yet I suspected that he had a warrant. I told him, 'I will comply with my Lord Sidney's command immediately.' I sent to the Bear Inn for a post coach and four horses, and I and the two messengers got into it quickly. We travelled three miles out of town, and I stopped the coach, as I had occasion for a person that was then in Bath to be in town, and I sent for this person; we then proceeded on our way to London. I paid the expenses of the carriage: I paid the dinner bill at Marlborough, and when we came to Reading I ordered supper in the usual way. I did not think it was absolutely necessary for me to tell the messengers I was going away. I left Reading about eleven o'clock at night, nor did I absolutely know what the charges were. I did not know whether they called it an arrest or not when the business took place; and from the persecution I had met with before, I thought it was dangerous to appear at that time; for all the

newspapers were full of false paragraphs, some of them asserting that I had fired men from the mouths of cannon; others, that I had additional means of punishment added to the ropes with which the men were punished. It terrified me so that I could not face it till I thought men's minds were cool to listen to the truth without prejudice. This is all that I have to say. I am here now to answer for it, and I commit myself to the protection of your lordships and of the gentlemen of the jury."

Several witnesses were called for the defence, the principal of whom was Mrs. Lacy, widow of the Captain Lacy, who was with Wall at the flogging of Armstrong; and certainly, if her evidence was to be taken, the conduct of the men, with Armstrong at their head, was riotous and mutinous. Part of her examination was as follows:—

Lord Chief Baron Macdonald: Who headed these men the first time?—I do not know; but the second time I perfectly recollect it was Armstrong.

Mr. Knowlys: But whoever they were, they addressed themselves to the governor, and he answered them?—Yes; they addressed themselves to the governor and demanded the short allowance due from Governor Adams.

Do you recollect what he said to them?—I think it was to return to their barracks and give him time to consider of it.

Then he did this in person, not by any messenger?—No, in person.

Did they go away to their barracks at the desire of their governor?—They did.

After they had gone this first time, did you see them come again?—I did; in about an hour and a half's time they came again.

In what way did they come then, and to what number?—They came headed by Sergeant Armstrong, Upton, and Patterson; and these were the chief of the African corps, to about seventy or eighty in number.

In what way did they come?—They came in a most riotous and mutinous manner.

Were they apparently sober?—From their manner one would not suppose that they were.

Did you see them before they reached the government house?—I saw them at the time they came there.

State everything you saw pass.—I heard them swear that if the governor did not satisfy their demands they would open the stores and satisfy themselves.

Where was the governor at the time they uttered this expression?—He was speaking to them.

How came he to speak to them?—I heard what passed from the soldiers.

At the time they came up, was the governor outside the government house or did he go out to them?—He went out to them.

Did you hear the governor say anything to any particular person in the company? you said Armstrong was one amongst them?—Yes.

Do you recollect Armstrong saying anything to the governor, or he to him?—I heard Armstrong swear that if the governor did not satisfy his demands he would open the stores.

What else passed between Armstrong and the gover-

nor?—After the governor spoke to him he went off with the men shouting and making a great noise in every state of mutiny.

Were any orders given by the governor to Armstrong? —I do not know.

Did the governor consent to their staying there in that way?—Certainly not.

What did he say to them about their staying there? —I cannot repeat what the governor said; I heard them behave in a mutinous manner.

Did the governor say anything to them about their staying there or departing from that place?—He ordered them to depart.

When the governor ordered them to depart, what was the answer made by Armstrong or any of the company? —They behaved in a riotous manner.

What answer did they make to him?—They would not for some time; they declared they would break open the stores and supply themselves.

That was the answer they made to the governor's orders to depart, was it?—It was.

Did Armstrong or any of the company with him say anything about his leaving the island at that time?— They were, I believe, very mutinous for some time before.

Did they say anything about his departing or not from the island?—I do not know. They said they would not let him leave the island till they were satisfied.

Who was the spokesman upon this occasion?—Armstrong, Upton, and Patterson were the three spokesmen.

Did they express their determination in a peaceable

and quiet manner, or the contrary?—They spoke it in a most threatening manner.

Was it in an alarming manner?—Indeed it was.

From the conduct and manner which the people observed towards the governor at the time, did you yourself at that time apprehend mischief?—Upon my word, I did.

Upon your oath?—Upon my oath, I did.

It should here be observed on this testimony of Mrs. Lacy, that, if not otherwise exaggerating, she certainly overstated one fact—viz., as to the number of men assembled being seventy or eighty—as none of the witnesses, except Mrs. Faulkner, who came on the same side after her, made them out even up to a third of eighty. Mrs. Lacy was also, in all probability, wrong in positively asserting, against the convincing evidence for the Crown, that the first witness, Lewis, was not the orderly-sergeant, and was not present on the day in question. She was shown to be still more at fault when she stated that her deceased husband was incapacitated in consequence of a *coup de soleil* from coming forward to exculpate Governor Wall when first apprehended. Mrs. Faulkner, the next witness, even went beyond Mrs. Lacy in describing the violence of the supposed mutiny, and she was much shaken on cross-examination. Her husband, Faulkner, one of the garrison, though testifying to some mutinous behaviour on the part of the men, quite broke down in endeavouring to show that there was a real court-martial. He was asked:—

During the time the officers were inside the ring, what took place?—Armstrong was called forward and

asked what he had to say for his own defence; he said nothing; he did not reply at all.

Mr. Justice Rooke: Did they tell him what he was charged with?—By being mutinous.

Mr. Alley: What was said to Armstrong?—Captain Lacy said, "What have you to say for yourself, Armstrong, being in this mutinous affair?"

Did he make any answer?—He made no reply.

Mr. Justice Rooke: Did they tell him what mutinous affair it was?—Stopping the governor from going on board; and threatening to bring his stores on shore if he did not settle with them.

Did Captain Lacy or anybody else say all that to Armstrong?—Yes, Captain Lacy told him.

Now let us hear all Captain Lacy said?—Captain Lacy told him he was tried for stopping the governor from going on board and threatening to bring his stores on shore.

You heard Captain Lacy say this yourself, did you?—Yes, I did. He was then tried by Captain Lacy, Lieutenant Fall, and Lieutenant O'Shanley.

Lord Chief Baron Macdonald: Was there any more trial than telling him he had wished to prevent the governor from going, and that was a mutinous affair? Was there anything more?—There was no more trial.

Then the trial was acquainting him with that and asking him what he had to say for himself?—Yes.

Mr. Alley: Did he say anything for himself?—No, he did not.

Do you recollect whether anything further was said?—Nothing farther was said.

Did you see the surgeon there?—Yes, I did.

Do you recollect anything further that passed at that time?—The surgeon and linguist were both there at the time.

Do you recollect whether any sentence was pronounced?—There was.

What was said?—Captain Lacy told him he was to receive eight hundred lashes by the linguist; he was then tied up and received them; the surgeon was there present the whole time.

In confutation of the last assertion, the surgeon had already stated that he was not present the whole time. The other witnesses for Wall, one of whom was proved not credible on oath, did not carry his case any further. A few respectable witnesses gave him a character for humanity, but their testimony was feeble; and one of them, on cross-examination, would not go so far as to state Wall bore a general reputation of being humane.*

One glaring contradiction to Wall's line of defence was his own letter to Government on his return from Goree, in which (it was read at the trial) he makes no allusion to any mutiny or riot having occurred. There also remained unanswered the facts that Armstrong had not the shadow of a trial, and that he was punished in a monstrous way, with an unusual instrument and with an excessive number of blows. Upon all this the learned Chief Baron pointedly commented in his lucid

* A melancholy circumstance occurred with regard to one witness coming to speak to Wall's character—Major Winter, R.A. The major, who arrived for the purpose from Woolwich, on getting out of the stage coach, dropped down and instantly expired.

summing up, from which I give the following introductory remarks, as most apt and explanatory on the subject of suppressing military and naval mutiny, and on corporal correction in general.

"This case," said the Chief Baron, "will, gentlemen of the jury, for many reasons, in my apprehension, require your closest and best attention. In the first place, the charge against the prisoner at the bar is the heaviest which our law knows; his life is at stake; and that of itself would, I am sure, be sufficient to excite every degree of care and attention in you; but in other respects it seems to me to be of peculiar importance, for on the one hand, as the Attorney-General has most liberally and most sensibly said, when a well-intentioned officer is at a great distance from his native country, having charge of a member of that country, and it shall so happen that circumstances may arise which may alarm and disturb the strongest mind, it were not proper that strictness and rigour in forms and in matters of that sort should be required, where you find a real, true, and genuine intention of acting for the best for the sake of the public. You see they are in a situation distant from assistance and from advice; in these circumstances, if a man should be so much thrown off the balance of his understanding as not to conduct himself with the same care and attention that any one in the county of Middlesex would be required to do, and does not exceed greatly the just and proper line of his duty, allowances for such circumstances ought unquestionably to be given to him.

"But, on the other hand, it is of consequence, that

where a commander is so circumstanced—that is, at a distance from his native country—at a distance from inspection—at a distance from immediate control—and not many British subjects being there—if he shall, by reason of that distance, wanton with his authority and his command, it will certainly be the duty of the law to control that, and to keep it within proper bounds. The protection, therefore, of subjects who are serving their country at that distance, on the one hand, is one of the objects you are to have in view to-day. The protection of a well-intentioned officer—if such he be—who does not by his conduct disclose a malevolent mind, but may disclose human infirmity to a certain extent, who, being in trepidation and alarm of mind, overlooks some things he ought otherwise to have regarded;—such a man's case is, on the other hand, deserving of great attention. . . .

"I would also mention to you, that in all cases of corporal punishment, as I conceive, where there is lodged a discretion, regard is to be had to the extent of that punishment and to the means of inflicting it; because legitimate punishment may be inflicted in such a manner as to show that the infliction of the punishment was made the ground of wilfully carrying it to an extent and excess that would be attended with the destruction of him who is the object of it. I conceive, for example, that a regimental court-martial, although it is to act by discretion, and is not strictly meted and bounded in the degree of punishment by act of Parliament—nor are many subordinate punishments which are discretionary in other courts—that such tribunals cannot go to any

excess that they please, either in the extent of that punishment or in the mode of administering it. I conceive that a regimental court-martial, and those who are to see its sentence put into execution, are bound by the rules which good sense, experience, and humanity point out, as not being so excessive as upon the very face of them to be possibly the means of executing a sentence they could not pronounce, namely, a sentence of death.

"Now, gentlemen, to make this extremely familiar. It is perfectly clear that many persons have authority to correct in a certain degree. A master has to correct his servant. A parent has not only the power, but it is his duty to correct his child; but let me suppose that instead of inflicting five or six strokes with a few birch twigs upon that child, you inflict five or six hundred; although the instrument may be a legal instrument, and cannot be quarrelled with, yet the extreme excess of the quantity may denote an intent to do mischief, not bridled by that which ought to bridle human actions. I will put it likewise that the instrument itself is improper. Suppose, instead of five or six strokes with a rod, you give five or six blows with a cudgel, you would say that was an instrument likely to kill the child, and would be an excess with respect to the instrument itself. So also, I conceive, it is not to go abroad to the world that a court-martial is to inflict an over-great number of strokes with an instrument likely to do much more mischief than the ordinary instrument. It may be that a hundred strokes with a particular instrument may do more mischief than a thousand with the instrument ordinarily used. I take it they are bound to

inflict that measure of punishment which has been known ordinarily to be inflicted and borne; and it may be a question whether the quantity be inordinate in proportion to the instrument, that may not be evidence of such malice as may constitute that which would otherwise be justifiable, a murder according to the definition of the law of England."

The Judge then went elaborately through the evidence; and after he had concluded, the jury went out for some time, and returned with a verdict of "Guilty."

The Recorder proceeded to pass sentence of death upon Wall, that he should be executed the following morning, and that his body should be afterwards delivered to be anatomised according to the statute.

Mr. Wall seemed sensibly affected by the sentence, but said nothing more than requesting the court would allow him a little time to prepare himself for death.

On the 21st of January a respite was sent from Lord Pelham's office, deferring his execution until the 25th. On the 24th he was further respited till the 28th. His wife lived with him for the last fortnight prior to his conviction. He, before trial, although allowed two hours a day, from twelve till two, to walk in the yard, did not once embrace this indulgence; and during his confinement never went out of his room, except into the lobby to consult his counsel. He lived well, and was sometimes in good spirits. He was easy in his manners and pleasant in conversation; but during the night he frequently sat up in his bed and sung psalms, being overheard by his fellow-prisoners. He had not many visitors; his only attendant was a

prisoner, who was appointed for that purpose by the turnkey.

After trial he did not return to his old apartment, but was conducted to a cell; he was so far favoured as not to have irons put on, but a person was employed as a guard to watch him during the night, to prevent him doing violence to himself. His bed was brought to him in the cell, on which he threw himself in an agony of mind, saying it was his intention not to rise until they called him on the fatal morning; and he kept his word.

The sheriffs were particularly pointed and precise in their orders with respect to confining him to the usual diet of bread and water preparatory to the awful event. This order was scrupulously fulfilled. The prisoner during a part of the night after sentence slept, owing to fatigue and perturbation of mind. The next morning his wife applied, but was refused admittance without an order from one of the sheriffs. She applied to Mr. Sheriff Cox, who thereupon himself attended her to the prison.

From the time of the first respite until twelve o'clock on Wednesday night, Wall did not cease to entertain hopes of his safety. The interest made to save him was very great. The whole of Wednesday occupied the great law officers; the judges met at the Lord Chancellor's in the afternoon. The conference lasted upwards of three hours, but ended unfavourably to Wall.

The prisoner had an affecting interview with his wife, the Hon. Mrs. Wall, the night before his death, from whom he was painfully separated about eleven o'clock. This disconsolate and affectionate lady, unremitting in

her solicitude, caused Wall to write a note to Mr. Kirby, the jailor, about nine o'clock, requesting that she might be permitted to remain in the cell until eleven, thus cordially manifesting her fond but delusive hopes to the very latest moment. Mr. Kirby, with a feeling of humanity, readily complied with this request. But no tidings of mercy arrived, and at eleven o'clock she saw the end of all her earthly joys. After many tender embraces, the wife reluctantly departed, overwhelmed with grief and bathed in tears, while the unfortunate husband declared that he could now, with Christian fortitude, submit to his unhappy fate. During the greater part of the night he slept but little.

When, the following Thursday morning, Wall ascended the scaffold, accompanied by the Rev. Ordinary, there arose three successive shouts from an innumerable populace, the brutal but determined effusion of one common sentiment, for the public indignation had never been so high since the hanging of Mrs. Brownrigg, who had whipped her apprentices to death.

The wretched Wall bowed his head under this extreme pressure of ignominy, and almost immediately afterwards was, without signal, launched into eternity. After hanging a full hour his body was cut down, put into a cart, and immediately conveyed to a building in Cowcross Street to be dissected. Wall was dressed in a mixed-coloured loose coat, with a black collar, swan-down waistcoat, blue pantaloons, and white silk stockings. He appeared a miserable and emaciated object, never having quitted the bed of his cell from the day of condemnation till the morning of his execution.

The body of the unfortunate governor was not exposed to public view as usual in such cases. Mr. Belfour, Secretary to the Surgeons' Company, applied to Lord Kenyon, Lord Chief Justice of the Court of King's Bench, to know whether such exposure was necessary; and finding that the forms of dissection only were required, the body, after those forms had passed, was consigned to the relations of the unhappy man upon their paying fifty guineas to the Philanthropic Society. The remains were interred in the churchyard of St. Pancras.

The "Gentleman's Magazine" of 1802 thus refers to the execution of Governor Wall:—

"Thursday, Jan. 28, 1802.—This day Joseph Wall, Governor of the island of Goree, after a trial at the Old Bailey, which occupied the time of the court from nine in the morning till near eleven at night, was, for the wilful murder of Benjamin Armstrong, a sergeant in an African corps, executed pursuant to his sentence. The gallows-hunters behaved with great indecorum, hissing, groaning, and shouting, even to his very last moments. Mr. Wall was six feet four inches high, and of a genteel appearance. He behaved with great steadiness and composure during his long and painful trial, which lasted fourteen hours. He was sixty-five years of age, but did not look so old. He was respectably connected with several families of distinction in Ireland. His brother, Counsellor Wall, was a literary gentleman, who excited great notice in his day, and was the author of several literary productions; but what was most remarkable was, that he was the first person who presumed to

publish Parliamentary Reports with the real names of the speakers prefixed. Dr. Johnson (in our Magazine) dressed them in Roman characters; others gave them as Orators in the Senate of Liliput. Mr. Wall laid the foundation of a practice which, we trust, for the sake of Parliament and of the nation, will never be abandoned."

It is quite clear, from the periodicals and from the squibs and verses about it at the time, that Wall's execution was approved of by the public, and was looked on as a praiseworthy act of retributive justice.

THE TRIAL OF COLONEL DESPARD.

TOWARDS the close of the year 1802 the feeble Peace of Amiens was evidently on the eve of ending, and Europe was in feverish excitement. The first Consul, Napoleon Bonaparte, fast approached the zenith of his power: already had the "gloom of his glory" arisen "and o'ershadowed the earth with his fame." Unlike his illustrious nephew, Napoleon III., he could not understand England, nor England him, and so the war between them was about to be revived more deadly and determined than before. England feared not (when did England ever fear?), but the British people were everywhere in a state of uncertainty and anxiety, natural upon the momentous preparations for the renewed struggle. Continual alarms of internal treachery magnified into giant cases of treason, and exaggerated demonstrations of loyalty were the order of the day. This political condition must be fully understood to make us now-a-days comprehend the extraordinary sensation caused by the following criminal attempt of a half-crazy officer and a parcel of pauper miscreants, truly one of the most miserable affairs that perhaps ever occupied a Royal Commission sitting on a trial for high treason. The chief conspirator, Despard, who had been a thorough

gentleman and a soldier, and who had Nelson himself to give him a character, must, from what he supposed was the neglect, but what was no more probably than the procrastination of Government, have lost his wits and have become a dangerous lunatic, more fit for a madhouse than the gallows.

One can hardly refrain from a smile on reading the following amplification of Lord Ellenborough, when passing sentence upon such poor and incapable conspirators:—"The object," said his lordship, "of the conspiracy, in which you have borne your several very active and criminal parts, has been to overthrow and demolish the fundamental laws and established government of your country; to seize upon and destroy the sacred person of our revered and justly beloved sovereign; to murder and destroy the various members of his royal house; to extinguish and annihilate the other branches of the legislature of this realm." Yet the learned and able judge did no more than speak the sentiments and suspicions of the period. It was, indeed, the then excitement of the public, and nowise any intrinsic importance, that has made this crime of Despard historical. I here give it somewhat fully because the interest really lies in details revealing the minuteness of the capabilities of the prisoners, and the magnitude of the proceedings against them.

The ancient and honourable family of Despard is to this day of high standing and respectability in Ireland. The first of the Despards who settled there was a commissioner sent by Queen Elizabeth for partitioning the Irish lands. This Commissioner Despard and his father

had fled from France in 1572 to escape the massacre of St. Bartholomew. Their descendant, William Despard, Esq., of Cranagh, in the Queen's County, was M.P. for Bantry. His third son, William Despard, Esq., of Killaghy, in the County of Tipperary, M.P. for Thomastown, married Frances, daughter and coheir of Daniel Green, Esq., of Killaghy Castle, County Tipperary, and was father (with other issue) of an eldest son, William, his successor, and a second son, Francis Green. The eldest son became William Despard, Esq., of Coubrane and Cartoun, Queen's County, and Killaghy Castle, County Tipperary, and married, May, 1732, Jane, daughter of the Rev. Mr. Walsh, Rector of Blessington and had (with another who died young) six sons, viz.:— 1. William, who married and left a family; 2. Philip, Captain 7th Fusiliers, who married and left a family; 3. Green, Captain R.N., who died unmarried; 4. John, a Lieut.-General in the Army, who married Harriet Anne, daughter of Thomas Hesketh, Esq., and granddaughter of Sir Robert Hesketh, Bart., and had an only child, Harriet Dorothea, wife of the late Vice-Admiral Henry Francis Greville, C.B., kinsman of the Earl of Warwick: she left, with other issue, a son, the present Major-General H. L. F. Greville, R.A.; 5. Andrew, a colonel in the army, who died in 1840, aged 90; and 6. Edward Marcus, the unfortunate subject of this trial. Edward Marcus Despard was born in 1750, and as the above genealogical account shows, was the youngest of six brothers, all of whom, except the eldest, had served their country either in the army or navy. In 1766, he entered the army as an ensign, in the 5th regiment; in the same regiment he served as a

lieutenant, and passing into the 79th he was successively lieutenant, quartermaster, captain-lieutenant, and captain. From his superior officers he received many marks of approbation, particularly from General Calcraft, of the 50th, General Meadows, and the Duke of Northumberland. He had been for twenty years detached from any particular corps, and entrusted with important offices. In 1779 he was appointed chief engineer to the St. Juan expedition, and conducted himself so as to obtain distinction and official praise. He also received the thanks of the Council and Assembly of Jamaica for the construction of public works there, and was in consequence appointed by the Governor of Jamaica to be Commander-in-Chief of the Island of Rattan and its dependencies, and of the troops there, and to rank as lieutenant-colonel and field engineer; and he commanded as such on the Spanish main, in Rattan, and on the Musquito shore, and the Bay of Honduras. After this, at Cape Graciosa Dios, he put himself at the head of the inhabitants, who voluntarily solicited him to take the command, and took from the Spaniards Black River, the principal settlement of the coast For this he received the thanks of the Governor, Council, and Assembly of Jamaica, and of the King himself. In 1783 he was promoted to the rank of colonel. In 1784 he was appointed first commissioner for settling and receiving the territory ceded to Britain, by the sixth article of the definitive treaty of peace with Spain, in 1783. He so well discharged his duty as a colonel that he was appointed superintendent of his Majesty's affairs on the coast of Honduras, which office he held much to the advantage of the Crown of England, for he got from

that of Spain some very important privileges. The clashing interests, however, of the inhabitants of the coast produced much discontent, and the colonel was, by a party of them, accused wrongly, as it turned out, to his Majesty's ministers, of various misdemeanours. He therefore came home, and demanded that his conduct should be investigated; but after two years' constant attendance on all the departments of Government, he was at last told by the ministers that there was no charge against him worthy of investigation, and that his Majesty had thought proper to abolish the office of Superintendent at Honduras, otherwise he should have been reinstated in it; but he was then, and on every occasion, assured that his services should not be forgotten, but in due time meet their reward. Well it would have been for the colonel if he had rested satisfied with this intimation and waited quietly for the promised employment; but official delay, the circumlocution of a busy time, and the apparent spurns of his merit, which he took too impatiently, seem to have somewhat turned his brains. The colonel got irritated by continual disappointments, and began to vent his indignation in a public and unguarded manner.* He consequently was

* Mr. Timbs, F.S.A., in his interesting work, "A Century of Anecdote" thus refers to Colonel Despard:—"This gallant but unfortunate officer appears to have fallen into a sea of troubles through his devoted loyalty. In the course of his service he was the companion and friend of Lord Nelson, during his co-operation with whom, at the Siege of Honduras in his zeal for the public cause, he advanced large sums of money from his own resources, for the promotion of the operation of the war. For this, as well as for his gallantry and ability, he was thanked by Parliament, but *not repaid*. On his arrival in England, he pressed his

looked on in the light of a suspicious character, and was arrested and held for some time, in harsh confinement, in Coldbath-fields gaol, under the Act the 38 George III., c. 36 (continued by subsequent acts),

claims for repayment upon the Ministry; and irritated by the delays and difficulties thrown in his way by officials, he became enraged beyond control. He appealed to the House of Commons, but in vain. He then fell into pecuniary difficulties, grew excited to desperation, wrote violent letters to ministers, and having joined the London Corresponding Society, was taken up under the Act for suspending the writ of Habeas Corpus, and confined to Coldbath Fields Prison. There the eminent Lord Cloncurry (then the Hon. Valentine Browne Lawless, who himself was imprisoned in a similar way on suspicion in the Tower in 1798) found Despard, who had served many years in tropical climates, imprisoned in a stone cell, six feet by eight feet furnished with a truckle-bed and a small table; there was no chair, fire-place, or window, light being only admitted through a barred but unglazed aperture over the door opening into a paved yard, at the time covered with snow. Despard was confined, we believe, in the winter of 1797, and during his incarceration he had grown worn and wan, and of unsound mind. In talking over the condition of Ireland with Mr. Lawless, the colonel said, 'he had not seen his country for thirty years, he had never ceased thinking of it and of its misfortunes, and the main object of his seeing Mr. Lawless was to disclose his discovery of an infallible remedy for the latter—viz., a voluntary separation of the sexes, so as to leave no future generation obnoxious to oppression.' This plan of cure would, he said, defy the machination of the enemies of Ireland to interrupt its complete success.

"In a few years after this conversation, this poor madman, at the Oakley Arms public-house, in Lambeth, was apprehended."

In the "Life and Times of Lord Cloncurry," by Mr. W. J. Fitzpatrick, I find the following additional particulars:—"Some months after the Hon. Valentine Lawless's visit to Despard, during the debates in the House of Commons on the propriety of continuing the suspension of Habeas Corpus, Mr. Courtney read a letter aloud from Mrs. Catherine Despard.

"'I think it necessary to state,' she writes, 'that he was confined near seven months in a dark cell without fire or candle, chair, table,

which empowered "His Majesty to secure and detain such persons as his Majesty shall suspect are conspiring against his person and Government." Imprisonment increased rather than amended the rancour and restlessness of Despard's temper, and on his liberation he was little better than a lunatic: he had become a wild revolutionist, and, what was a strong sign of his mental aberration, an infidel. He daily grew more and more malignant against Government. Thus inflamed, he endeavoured to inflame others, and at length brought upon himself, and those poor ignorant wretches who were seduced by his arguments, disgrace and death. A madder or more miserable conspiracy than his never was hatched. It was revealed to the public in the following manner:—On the 16th of November, 1802, in consequence of a search warrant, a numerous body of the police-officers went to the Oakley Arms, Oakley-street,

knife, fork, a glazed window, or even a book. I made several applications in person to Mr. Wickham, and by letter to the Duke of Portland, all to no purpose. The 20th of last month he was removed into a room with a fire, but not until his feet were ulcerated by the frost. For the truth of this statement I appeal to the Hon. Mr. Lawless and John Reeves, Esq., who visited him in prison, and at whose intercession he was removed. The jailor will bear witness that he never made any complaint of his treatment, however severe.'

"The sympathies of Valentine Lawless were, as usual, awakened. He expressed the greatest commiseration for Despard's sufferings, and resolved to provide for his wife and family at Lyons (his family seat, in the County of Kildare), whenever circumstances suggested the propriety of doing so, and certain other circumstances permitted it. We trust it is not unpardonably anticipating to observe that Lawless (who had succeeded as second Lord Cloncurry in 1799) did afford the widowed Mrs. Despard a comfortable asylum within the bosom of his own family at Lyons.

Lambeth, where they apprehended Colonel Despard, and near forty labouring men and soldiers, many of them Irish. Next morning they were all brought up before the magistrates in the Union Hall. The result of the examination was, that Colonel Despard was committed to the county gaol, and afterwards to Newgate; twelve of his low associates (six of whom were soldiers) were sent to Tothill-fields Bridewell, and twenty to the New Prison, Clerkenwell. Ten other persons who had been found in a different room, and who appeared to have no concern with the colonel's party, were instantly discharged.

The colonel during all the preliminary examinations was invariably silent.

The Privy Council, the more effectually to try the prisoners, issued a special commission.

On the 21st of January, 1803, the special commission was opened at the Sessions House at Newington. The judges present were:—The Right Hon. Sir Edward Law, Lord Ellenborough, Lord Chief Justice of the Court of King's Bench; the Hon. Sir Alexander Thomson, one of the Barons of the Court of Exchequer; the Hon. Sir Simon Le Blanc, one of the Justices of the Court of King's Bench; and the Hon. Sir Alan Chambre, one of the Justices of the Court of Common Pleas.

On the same day the Grand Jury met, among whom were Lord Leslie, foreman, Viscount Cranley, Lord William Russell, Sir Mark Parsons, and four other baronets. The names of Sir Mark Parsons and Lord William Russell awake in themselves criminal recollections, for Sir Mark's father was hanged for felony in

1760, and Lord William was murdered by Courvoisier in 1840. This Grand Jury returned a true bill against Edward Marcus Despard, John Wood, Thomas Broughton, John Francis, Thomas Phillips, Thomas Newman, Daniel Tyndall, John Doyle, James Sedgwick Wratten, William Lander, Arthur Graham, Samuel Smith, and John Macnamara, for high treason.

The court then adjourned to the 5th of February following, when it again met at the same place, the Sessions House, Newington; and, on the same judges taking their seats, Edward Marcus Despard, John Wood, Thomas Broughton, John Francis, Thomas Phillips, Thomas Newman, Daniel Tyndall, John Doyle, James Sedgwick Wratten, William Lander, Arthur Graham, Samuel Smith, and John Macnamara were set to the bar, and, being arraigned, severally pleaded "Not guilty." Despard had already had assigned to him for counsel Serjeant Best and Mr. Gurney. On the request of the other prisoners, Mr. Jekyll and Mr. Howell were assigned their counsel.

The prisoners' counsel having signified that they should separate in their challenges of the jury, the Attorney-General stated that he should proceed first on the trial of Colonel Despard. The court then adjourned to the following Monday, the 7th February, when it met again, and the trial of Despard began before the same judges.

The counsel for the Crown were:—The Attorney-General, the Hon. Spencer Percival, afterwards First Lord of the Treasury, and Chancellor of the Exchequer; the Solicitor-General, Sir Thomas Manners Sut-

ton, afterwards Lord Manners and Lord Chancellor of Ireland; Serjeant Shepherd, afterwards Sir Samuel Shepherd, Attorney-General, and Lord Chief Baron of the Exchequer of Scotland; Mr. Plumer, afterwards Sir Thomas Plumer, Solicitor-General, and successively Vice-Chancellor of England and Master of the Rolls; Mr. Garrow, afterwards Sir William Garrow, Attorney-General, and a Baron of the Exchequer; the Common Serjeant; Mr. Wood, afterwards Sir George Wood, a Baron of the Exchequer; Mr. Fielding, afterwards a police-magistrate; Mr. Abbott, afterwards Sir Charles Abbott, Lord Chief Justice of the Court of King's Bench, and Baron Tenterden. The solicitor for the Crown was Joseph White, Esq., Solicitor for the Affairs of his Majesty's Treasury. The counsel for Colonel Despard were Serjeant Best, afterwards Sir William Draper Best, Lord Chief Justice of the Court of Common Pleas, and Baron Wynford; and Mr. Gurney, afterwards Sir John Gurney, a Baron of the Exchequer. The solicitor for Despard's defence was Mr. Palmer, of Barnard's Inn.

The indictment was opened by Mr. Abbott.

The Attorney-General, in addressing the jury, began by enforcing the necessity of a patient attention to his statement and a due consideration of the evidence. "No one," he said, "would deny that, if there has been a plot to overturn the Constitution and destroy our Sovereign, the base conspirator should suffer his merited punishment, but the nature of the charge should not operate to his disadvantage; the grand principle of our law ought rather to be confirmed, 'that every man should be considered innocent till he is found guilty.'"

The Attorney-General then adverted to the nature of the crime of treason, and expressed his expectation that, if the charge were substantiated, the jury would pronounce the prisoner guilty without the least hesitation; and, after many remarks to show that there was not the least ground for suspecting the prosecution to have been brought forward from any party motive or prejudice on the side of Government, he concluded his preliminary remarks with observing, that from the clearness of the evidence, the trial could not be long. He then proceeded to state the counts in the indictment, which were three in number, and charged the acts to have been done with the intention of compassing the death of the king, imprisoning his person, and dethroning him. To prove the criminal intention, an overt act is necessary, and in this indictment eight overt acts were stated, which were divided into two classes: the four first charged the seduction of his Majesty's troops, for the purpose of assassinating and imprisoning him; and the remainder, plans for the accomplishing of these purposes. After fully stating the law respecting treason and conspiracy, the Attorney-General read over the names of the persons included in the indictment, and observed that ten of them, besides the prisoner, were apprehended at the Oakley Arms on the 16th November. It appeared that, in the last spring, a detachment of Guards returned from Chatham, and shortly afterwards a conspiracy was formed for overturning the Government; a society was established for the extension of liberty, of which two men, named Francis and Wood, were very active members; they frequently attempted to seduce soldiers into

the association, and sometimes with success. Francis administered unlawful oaths to those that yielded, and among others were two named Blaine and Windsor, giving them two or three copies of the oath that they might be enabled to make proselytes in their turn. Windsor soon after becoming dissatisfied gave information to a Mr. Bownas, and showed him a copy of the oath. This gentleman invited him to continue a member of the association, that he might learn whether there were any persons of consequence engaged in it. The prisoner at the bar tendered this oath; it was found in the possession of Broughton, Smith, and others. It was printed on the cards in these words:—"Constitution! the independence of Great Britain and Ireland! an equalisation of civil, political, and religious rights! an ample provision for the families of the heroes who shall fall in the contest! a liberal reward for distinguished merit! These are the objects for which we contend, and to obtain these objects we swear to be united."

The form of the oath was:—"In the awful presence of Almighty God, I, A. B., do voluntarily declare that I will endeavour to the utmost of my power to obtain the objects of this union—namely, to recover those rights which the Supreme Being in His infinite bounty has given to all men; that neither hopes nor fears, rewards nor punishments, shall induce me to give any information, directly or indirectly, concerning the business, or of any members of this or of any similar society, so help me God!"

The Attorney-General then commented on different passages contained in this oath, and endeavoured to

show that it could only bear a treasonable interpretation. Proceeding in his statement, he observed that, about the middle of summer, the conspirators began to think it might be dangerous for them always to meet at the same place. To avoid suspicion, they therefore went to various public-houses in Windmill-street, Oxford-street, St. Giles's, Hatton Garden, Whitechapel, in the Borough, about the Tower, and to the Oakley Arms in Lambeth. To these meetings they invited soldiers, and treated them; toasts were given to answer the objects of the association, such as "the Cause of Liberty," "Extension of Rights," "the Model of France," &c. They now increased greatly in audacity, and were betrayed by their confidence into the greatest extravagances; some of them proposed a day for attacking the Tower, and the great blow was to have been struck on the 16th November, the day on which the king first intended to go to Parliament.

"I shall hasten," continued the Attorney-General, "in the statement of my evidence, to the later scenes of this conspiracy; because, during the early part of it, excepting in the instances of endeavouring to administer these unlawful oaths, the evidence will not bring Despard very forward in the conspiracy. But when it appeared to approach a little more to its maturity, the colonel appears a more conspicuous character. The events of the last week previous to his arrest will furnish me, I think, with no less than four opportunities of showing him connected with these conspirators, in most treasonable communication upon the design. On the Tuesday preceding the Tuesday on which they were arrested, on

the 9th November, he was at the same Oakley Arms, in company with some of the same traitors in whose company he was found on the 16th. Broughton is a name I particularly recollect, who, I think, was the person that invited the witness whom I shall call to prove his having been there, and represented that the time was now approaching when it was intended that a great stroke should be struck. You may recollect that his Majesty had intended to meet his Parliament, the last sessions, a week sooner than he actually did. It was intended that he should have met Parliament on the 16th instead of the 23rd; and on the 16th it was the intention of these conspirators, supposing his Majesty had on that day gone down to the House, to have carried into effect this plan of destroying him. On the night of the 9th of November, I shall show the prisoner to have been present amongst these conspirators. I shall prove him likewise to have been present at a meeting that will be very particularly deserving of your attention on the Friday. The same Broughton will be proved to have prevailed upon two persons, whom I shall call to you as witnesses—Windsor was one of them, and Emblin another—to go on the Friday to the Flying Horse, at Newington, Broughton telling them that if they went, they would meet a nice man there, and find that things were in a fine train. They accordingly went, and the nice man whom they found, and to whom they were there introduced, was Colonel Despard, the prisoner at the bar. . . . .

"That meeting lasted about two hours; and the plan of carrying this treason into execution was the main

subject of conversation. The mode in which the Tower was watched and guarded was one topic of conversation, with a view to see what facilities or difficulties might attend an attack upon that place. The principal thing, however, which will require your consideration, was the plan of intercepting the king in his way down to the Parliament House; this was discussed. The difficulties attending it—the mode in which these difficulties were to be met with and got rid of—were parts of the conversation supported by different persons. I think it was Broughton who suggested that one good way would be to shoot the horses of the coach, and then the coach would necessarily stop; upon which it was observed by one of them that the Life Guards who were surrounding the coach would cut down any man who attempted to approach it; and on this occasion the prisoner at the bar made use of expressions which will be particularly spoken to, and will be particularly worthy of your attention. Upon its being stated that the Life Guards would resist any attempt that should be made upon the coach, and cut down any man who should approach it, and on its being asked who would be found to do it, he said that if no one else would do it, he would do it himself, accompanying it with an expression strongly demonstrative of the turn and frame of his mind at the moment, and of the desperate extent to which he meant to carry his treason; accompanying his expression by no less remarkable words than these: "I have well weighed the matter, and my heart is callous." Gentlemen, this cannot be equivocal; callous, indeed, must be the heart which meditated the plan that I

charge against him; and the expression could hardly be used with reference to any other."

The Attorney-General then observed, that Government was well aware of the proceedings of these people, but would not interfere while danger was at a distance; however, when the schemes were nearly completed, about thirty prisoners were arrested at the Oakley Arms, and a sufficient body of evidence collected to prove them guilty. The conspirators consisted of the lowest order of the people, as journeymen, day-labourers, and common soldiers, with the exception, however, of the prisoner at the bar. Several were discharged; and Windsor, the evidence, came after the arrest, and offered to deliver himself up and communicate all information in his power: on his testimony several others were taken into custody. These were the principal points in the speech of the Attorney-General; but he continued for some time to expatiate on the probable system of defence for the prisoners, which he conceived would be principally an attack on the credibility of the witnesses: he contended that an accomplice is competent; observed that there could not be a doubt of the guilt of some of the prisoners; and that the papers were sufficient to prove the conspiracy, independent of oral testimony. He concluded thus:—

"I trust you will have no extraordinary feeling that should lead you to think that you are to endeavour to extricate the prisoner by any strain of ingenuity or of conscience in this case, which would not be properly applicable to another. Undoubtedly the nature of the charge is such as requires, as I stated, your most

anxious attention. It is one of the blackest and most mischievous that can come before you; but when it is brought home to the prisoner, the effect of these considerations is at an end. That he will even then, and to the last, be entitled to the fullest possible measure of justice at your hands, is that which unquestionably is true. His title to justice he can never forfeit; it cannot be forfeited in a court constituted as this is; administering English law by an English jury, under the direction of English judges; but that there shall be any feeling of humanity, which should be restlessly anxious to extend itself in his favour beyond those bounds within which both public and private duty confine it, is that which the prisoner has no title to expect, is that against which the public have a right to protest and to reclaim. I fear I have troubled you too long; I shall now proceed to call the witnesses, and if I do lay before you the evidence as I have opened it, confirmed as I have stated that it will be confirmed, I apprehend your duty to convict the prisoner, however painful the discharge of that duty may be to your feelings, will be indispensable."

Counsel then proceeded to call the witnesses for the prosecution.

Mr. J. Stafford, clerk to the magistrates of Union Hall, stated the arrest of the prisoners. Colonel Despard at first refused to be searched, but afterwards submitted, though nothing was found on him. There were three papers on the floor, which proved to be the oath, &c., already mentioned. Several police-officers proved the presence of Colonel Despard at the Oakley Arms.

Thomas Windsor, the principal evidence, said he was a private in the Guards, and that on his return from Chatham in March, he received some papers from John Francis which were similar to those already mentioned. Francis told him the object of the party was to overturn the present tyrannical system of government. The manner of taking the oath was by reading it secretly and then kissing the card. One object of the members was to raise subscriptions for delegates to go into the country, and to pay for affidavits. The society was divided into companies of ten men, commanded by another who bore the title of colonel. Francis and a person named Macnamara called themselves colonels. Encouragements were given to get a number of recruits, for which purpose cards were to be distributed through the country; afterwards, the witness was introduced by Broughton to Colonel Despard, at Newington, when in the course of conversation the colonel said that a regular organization in the country was necessary, and he believed that it was general. The people were everywhere ripe, and were anxious for the moment of the attack; "and," added he, "I believe this to be the moment, particularly in Leeds, Sheffield, Birmingham, and every great town throughout the kingdom. I have walked twenty miles a day, and wherever I have been the people are ripe." Colonel Despard then said that the attack was to be made on the day when the king would go to Parliament. He then repeated the words used by the colonel respecting the callousness of his heart, and stated that, after the destruction of the king, it was proposed the mail coaches should be stopped as a signal

to the people in the country that the revolt had taken place in London. The colonel was cautious as to the admission of new members. At another meeting the colonel, accompanied by Heron, a discharged soldier, and another person, observed, "We have been deceived as to the number of arms in the Bank: there are only six hundred stand there, and they have taken the hammers to render them useless, as they must have been apprised of our intention." They then returned to a public-house, when the colonel said privately to the witness, "Windsor, the king must be put to death the day he goes to the House, and then the people will be at liberty." He said he would himself make the attack upon his majesty if he could get no assistance on that (meaning the Middlesex) side of the water. The prisoner Wood said, that when the king was going to the House, he would post himself as sentry over the great gun in the park; that he would load it and fire at his majesty's coach as he passed through the park. Wood might in the course of his duty be sometimes placed as a sentry over that gun.

Mr. Bownas proved the copy of the "constitution" and oath given to him by Windsor.

Thomas Blaise, a private in the second battalion of Guards, deposed that Wood had told him of the union of several gentlemen who had determined to form an independent constitution at the risk of their lives and fortunes: he said the executive government had appointed Francis to be colonel of the first regiment of National Guards. Macnamara called upon Francis to point out three colonels and one artillery officer, and

charged him to do it with the utmost impartiality. Francis then pointed out him (the witness) as a proper man for a colonel. The commissions were to be distributed previous to the attack, when one of the persons, named Pendril, observed, that if it had not been for four or five cowards it would have taken place before that day, adding that he himself could bring a thousand men into the field, and if any man showed symptoms of cowardice he would blow his brains out; if anybody dared to betray the secret, that man, he said, should have a dagger in his heart. The witness then deposed to meeting with Colonel Despard at the Oakley Arms, on which occasion he heard much conversation about the best method of attacking the king: some said the Parliament house must also be attacked, and after that they must file away for the Tower. This witness, on his cross-examination, admitted that he had been three times tried by a court-martial for desertion, and accused of theft.

William Francis, a private in the 1st Guards, deposed nearly to the same effect as the preceding witness, as to the nature of the oath which was read to him, because he could not read himself; he said, at one time there was an assemblage of people near the Tower, but they were immediately dispersed by orders from Colonel Despard, but he admitted that the oath was administered to him by the colonel himself; at one meeting the soldiers drew their bayonets, and said they were ready to die in the cause. On his cross-examination, he denied that he had ever been flogged, or had deserted.

John Connell, who had been arrested at the Oakley

Arms and admitted evidence, denied that his name was John, and insisted that it was Patrick; he afterwards admitted that he was advised by the prisoner to play this trick on the counsel. He was dismissed.

Several other soldiers in the Guards gave evidence as to the meeting of societies for overturing the Government, under the name of "Free and Easy," which met at different public-houses.

John Emblin, a watchmaker and a witness, who appeared to be of a superior understanding, deposed that he attended at the Oakley Arms on the suggestion of Lander, but disapproved of the plans. He also agreed in stating the plan of attack already mentioned, which was explained to him by Broughton, Graham, and others. Colonel Despard informed him that a very considerable force would come forward, particularly in all the great towns: and said that he had been engaged in this business for two years, and added, "I have travelled twenty miles to-day; everywhere I have been, the people are ripe and anxious for the moment of attack." This witness deposed to the plan of shooting the horses, as well as to the remarkable expression of the colonel before mentioned; also to the conversation about seizing the Bank, when it was agreed that the Bank should be seized and the Tower taken. Various subordinate plans were also detailed by the witness; amongst others, Broughton told him, with an oath, that he was resolved to load the great gun in the park with four balls or chain-shots, and fire it at the king's coach as he returned from the House.

Here the evidence for the Crown was closed.

Serjeant Best then addressed the jury on behalf of the prisoner, and endeavoured to show that, from the nature and spirit of our constitution, a person in his situation is entitled to peculiar favour. From the Act the 36 Geo. III., c. 7, on which the indictment was partly founded, he insisted that it is not by mere words spoken, that an accused person is to be found guilty, because a speech is subject to such serious misinterpretation. He laboured to show that words did not constitute an overt act; yet he admitted that the colonel was at some of the meetings, and that he might have spoken obnoxious words; but before he could be convicted, it was necessary to prove that he knew the meeting was of a treasonable nature. He denied that the printed card or paper was at all connected with the colonel, and cited the case of Layer and others (in the sixth vol. of the "State Trials"), to prove that the Crown did not content themselves with snch trivial proofs as here adduced, and laid much stress on the circumstance of no arms having been prepared for the attack. His next object was to impeach the credibility of the witnesses, the concurrent testimony of whom was, in the present instance, of no more force than one. The great improbability of the story was his next point of argument, and he ridiculed the idea of fourteen or fifteen in a common tap-room, with no fire-arms but their tobacco-pipes, men of the lowest orders of society, who were to seize the King, the Bank, the Tower, and the members of both Houses of Parliament; in short, he considered the whole statement of the witnesses as too absurd to merit attention, and that Colonel Despard,

who was a gentleman and a soldier, could not have embarked in such impracticable schemes unless he was bereft of reason. He then alluded to the past services of the colonel, who, in a joint command with Lord Nelson, had preserved one of our valuable colonies. It was known that the colonel had been suspected by Government; but though he had long been confined, there was not at that time sufficient evidence against him to go before a grand jury. He proceeded to comment on the character of the witnesses, and concluded thus:—

"I am persuaded, that at this late hour of the night, fatigued as I necessarily must be in passing through so arduous a service, some observations must have escaped me, and those which have occurred to me I have not pressed with that force which the occasion demands at my hands, but I have one consolation in the assistance of my learned friend, who will soon follow me, and supply my defects; or even if he should fail in doing that, we have this further consolation, that everything that can be urged in favour of the prisoner will be stated by the noble and learned judge. Any defect of mine he will supply, any inaccuracy he will correct. I have only to remind you, that you are sitting in a British court of justice. It is one of the maxims of the country in which we live—that maxim upon which everything dear and valuable depends—that you are to administer justice in mercy. You are sitting in a court of justice, which is a member of the government of a free people; you will remember that it is one of the principles of freedom, that men are not to be compelled to an adherence to

the government by terror, but to be attached to its laws by love. I am perfectly persuaded, therefore, that if you should agree with me presently in saying this case is not made out, and it is not to be made out by conjecture, you are not to condemn unless all idea of innocence be completely extinguished by the weight of the evidence that has been produced upon the cause,—I say, if you should agree with me in saying you do not see satisfactory grounds for delivering over this gentleman to that horrid death to which you assign him if you pronounce him guilty, a verdict of acquittal will have a greater effect than a verdict of guilty. Gentlemen, I say we are attached to our constitution and laws by love, and are not bound to adhere to them by fear; that love must necessarily be increased by such a circumstance as this, that after so many hours of trial, by so respectable a jury, men of consideration and consequence in the country, this gentleman, after the attack which has been made upon him, is delivered from it by your verdict. I am persuaded that, if there are any deluded persons in this country who fancy we have not attained that degree of perfect freedom which is capable of being attained, though I should hope what has lately passed would operate completely to remove that delusion, nothing will so completely satisfy them of their mistake as a verdict pronounced by you of not guilty, to-night. They will know, that when a subject is attacked by a prosecution not made out by fair and clear evidence, he is sure of protection in the uprightness and integrity of the judge, and the mercy of the jury who try the cause. They will learn that true freedom consists in the just and humane

administration of law, and will observe and cherish the laws they find to be so administered. I at one time intended to offer evidence in contradiction of these witnesses, but if I have shown them accomplices, and that the case is only proved by their evidence, I have shown them unworthy of contradiction, and the attempt could only serve to increase the fatigue you have already undergone; but I shall offer most material evidence: I shall offer evidence of the character of this gentleman. If courts of justice are intended to correct the morals and confirm the virtuous inclination of those who attend them—which is one great object of their institution—they cannot do it more effectually than by paying attention to the evidence of good character; it is telling a man that if, by the tenor of his life, he shall acquire a good character, it shall afford him a shield in a court of justice in the day of trial. The evidence of character must have effect in another point of view. The Attorney-General has said every man is to be supposed innocent till proved guilty. It is much less likely that a man who has maintained a good character should become on a sudden the vilest of men, *nemo repente fit turpissimus*, than that one who has appeared less correct should become criminal. I say, if this gentleman has borne a good character, which I shall show he has, that the case attempted to be made out against him is most improbable. One would almost believe that the stream should set back upon the fountain, than that a man who has deserved well of his country should concur with such miserable persons as you have heard to-day, in one of the most miserable conspiracies for treason that I ever

heard of. I have too good an opinion of the loyalty of the country to give credit to this story. If the case is made out, it is a most detestable and abominable treason. If the case is made out, no man but would with satisfaction see the sentence of the law executed; but remember the maxim of the Attorney-General, that, in proportion as the crime is enormous, so ought the proof to be clear. Gentlemen, I beg your pardon for troubling you at such a length at this time of night."

Serjeant Best, confining his evidence for the prisoner to witnesses for character, called, as a leading witness, no less a personage than Vice-Admiral Horatio, Lord Viscount Nelson, K.B., who was examined by Mr. Gurney as follows:—

How long has your lordship known Colonel Despard? —It is twenty-three years since I saw him; I became acquainted with him in the year 1779, at Jamaica. He was, at that time, lieutenant in what were called the Liverpool Blues. From his abilities as an engineer, I know he was expected to be appointed ——

Lord Ellenborough.—I am sorry to be obliged to interrupt your lordship; but we cannot hear what I dare say your lordship would give with great effect, the history of this gentleman's military life, but you will state what has been his general character?

To this Lord Nelson answered:—We went on the Spanish Main together; we slept many nights together in our clothes upon the ground; we have measured the heights of the enemy's wall together. In all that period of time, no man could have shown more zealous attachment to his sovereign and his country than Colonel

Despard did. I formed the highest opinion of him, at that time, as a man and an officer, seeing him so willing in the service of his sovereign. Having lost sight of him for the last twenty-three years, if I had been asked my opinion of him, I should have said, "If he is alive, he is certainly one of the brightest ornaments of the British Army."

Vice-Admiral Lord Nelson was thus cross-examined by Mr. Attorney-General:—

What your lordship has been stating was in the years 1779 and 1780?—Yes.

Have you had much intercourse with Colonel Despard since that time?—I have never seen him since the 29th of April, 1780.

Then as to his loyalty for the last twenty-three years of his life your lordship knows nothing?—Nothing.

Two other distinguished witnesses spoke in favour of the character of the Colonel—viz., Sir Edward Clark, at one time Governor of Jamaica, who had known the Colonel for many years up to 1790, and Sir Evan Nepean, Bart., Secretary to the Admiralty, who had been intimate with him from 1784 until almost up to the time of the trial. "I had," said Sir Evan, "so high an opinion of him, that I invited him to my house. I considered him a loyal man."

Mr. Gurney spoke to evidence in behalf of the prisoner, and endeavoured to invalidate the testimony of the witnesses; his peroration was eloquent.

"Before I sit down," said he, "I must entreat your serious attention to one observation more. There have been many cases in the history of the criminal jurispru-

dence of this country, which should impress caution on the minds of jurymen: many in cases of other crimes; many in cases of treason. How many innocent men have died in consequence of the credulity of jurors? I will refer you only to the supposed Popish plot in the reign of Charles II., for which as many men as are indicted here suffered unjustly; the juries by which they were tried being deceived by the hard swearing of witnesses, not more infamous than those whom you have heard to-day: and yet those juries were countenanced by the whole nation, the two Houses of Parliament leading the way. So firm and general was the belief of that plot, that to dispute or doubt its existence was deemed a mark of disaffection to the Protestant cause. In a short time the veil was torn off: the perjury, which had triumphed, was discovered to be perjury, but it was too late; the dead could not be recalled from the grave; and the jurors who had sent them there were left to the bitter reflections of their consciences,—to the unavailing lamentation of their credulity. But, though these persons died *unjustly*, I trust they did not die *in vain*. Their innocent blood speaks aloud to you not to follow the fatal example of your predecessors; not to lend, as they did, too easy faith to the testimony of wicked men. May you attend to the warning voice, and pronounce a verdict of acquittal, of which, I trust, you will never have reason to repent."

Colonel Despard declined saying anything in his own behalf.

The Solicitor-General replied on the part of the Crown, after which Lord Ellenborough summed up,

and stated the nature of overt acts; he read, *verbatim*, the whole of the evidence, commenting, as he proceeded, on the most striking parts.

The jury withdrew at about twenty minutes after two o'clock on the Tuesday morning to consider their verdict; they returned into court in about twenty-five minutes with a verdict finding the prisoner—Guilty.

The foreman added, "My lord, we most earnestly recommend the prisoner to mercy on account of the high testimonials to his former good character and eminent services."

At three o'clock the court adjourned to nine o'clock on Wednesday morning, when it again met, and the trial of John Wood, Thomas Broughton, John Francis, Thomas Phillips, Thomas Newman, Daniel Tyndall, John Doyle, James Sedgwick Wratten, William Lander, Arthur Graham, Samuel Smith, and John Macnamara, commenced and lasted till near eight o'clock the next morning, when the jury found John Wood, Thomas Broughton, John Francis, Thomas Newman, Daniel Tyndall, James Sedgwick Wratten, William Lander, Arthur Graham, and John Macnamara, guilty.

After which Edward Marcus Despard, John Wood, Thomas Broughton, John Francis, Thomas Newman, Daniel Tyndall, James Sedgwick Wratten, William Lander, Arthur Graham, and John Macnamara, were set to the bar.

Lord Ellenborough then passed sentence of death upon the prisoners in a rather high-flown speech. After describing in the strongest manner the enormity of the crime of which they had been convicted, and

observing that such vile purposes, however zealously begun, generally terminated in schemes of treachery against each other, he then proceeded:—

"With respect to the wicked contrivers of abortive treason now before me, it only remains for me to acquit myself of my last official duty. As for you, Colonel Despard, born, as you were, to better hopes, and educated to nobler ends and purposes; accustomed as you have hitherto been to a different life and manners, and pursuing with your former illustrious companions, who have appeared on your trial, the paths of virtuous and loyal ambition,—it is with the most sensible pain I view the contrast formed by your present degraded condition, and I will not now point out how much these considerations enhance the nature of your crime. I entreat of you, by those hopes of mercy which are closed in this world, to revive in your mind a purpose to subdue that callous insensibility of heart, of which, in an ill-fated hour, you have boasted, and regain that sanative affection of the mind which may prepare your soul for that salvation which, by the infinite mercy of God, I beseech of that God you may obtain. As to you (naming the other convicts), sad victims of his seduction and example, and of your own wicked purposes; you who fall a melancholy, but, I trust, an instructive, sacrifice, to deter others from the commission of similar crimes, may you apply the little time you have to live in the repentant contemplation of another world. Warned by your example, may the ignorant and unthinking avoid those crimes which bring you to a shameful and untimely end! May they learn duly

to estimate the humble but secure blessings of industry —blessings which, in an evil hour, you have cast from you! The same recommendation offered to the leader of your crimes, to prepare for the awful and near termination of your existence, I earnestly impress upon you; and I repeat for you my ardent invocation of mercy in a future state which the interest of your fellow-creatures will not suffer to be extended to you here. The only thing now remaining for me is the painful task of pronouncing against you, and each of you, the awful sentence which the law denounces against your crime, which is, that you, and each of you, (here his lordship named the prisoners severally) be taken to the place from whence you came, and from thence you are to be drawn on hurdles to the place of execution, where you are to be hanged by the neck, but not until you are dead; for, while you are still living, your bodies are to be taken down, your bowels torn out, and burnt before your faces; your heads are to be then cut off, and your bodies divided each into four quarters, to be at the king's disposal; and may the Almighty God have mercy on your souls."

The whole of this sentence, which, as the punishment of treason, disgraced our law even to a late period (until altered by the 54 George III., c. 146), was too disgusting and cruel to be completely carried out. The warrant which directed the execution of the unfortunate Despard and his associates remitted the disembowelling and quartering. This warrant was sent to the keeper of the new (Horsemonger Lane) gaol in the Borough at six o'clock on Saturday evening, Feb. 19, and included

seven prisoners; three—Newman, Tyndall, and Lander —having been respited. As soon as the warrant, which ordered the execution for the following Monday, was received, it was communicated to the unhappy persons by the keeper of the prison, Mr. Ives, with as much tenderness and humanity as the awful nature of the case required. Colonel Despard observed that the time was short; yet he had not had from the first any strong expectation that the recommendation of the jury would be effectual. The mediation of Lord Nelson and a petition to the Crown were tried; but Colonel Despard was convinced, according to report, that they would be unavailing. Soon after the arrival of the warrant all papers, and everything he possessed, were immediately taken from the colonel. The colonel's devoted wife, a lady of Honduras, whom he had married while in his command there, was fearfully affected when she first heard his doom was sealed, but afterwards recovered her fortitude. The colonel and Mrs. Despard supported themselves with great firmness at parting on the Saturday; and when she got into the coach that drove her away she waved her handkerchief out of the window. The other prisoners bore their sad lot with equal fortitude, but conducted themselves with less solemnity than the colonel. Their wives and near relatives were allowed to take a farewell of them on the same day; and the scene was truly distressing.

At daylight on Sunday morning, the drop, scaffold, and gallows, on which they were to be executed were erected on the top of the gaol. The Bow Street patrol and many other peace officers were on duty all day and

night, and the military near London were drawn up close to the prison. Mrs. Despard took final leave of her husband at three in the afternoon, yet came again at five o'clock, but it was thought advisable to spare the colonel the pang of a second parting, and she was, therefore, not admitted into his cell. She evinced some indignation, and expressed a strong opinion with respect to the cause for which her husband was to suffer. After she had left the colonel at three o'clock, he walked up and down his cell for some time, seemingly more agitated than he had been at the actual moment of taking leave of her. Between six and seven in the evening he threw himself on the bed, and fell into a short sleep. At eight he awoke and addressed one of the officers of the prison, who was with him, in these words:—"Me—they shall receive no information from me; no, not for all the gifts, the gold, and jewels, in the possession of the Crown!" He then composed himself, and remained silent. Seven shells or coffin[8] to receive the bodies, were brought into the prison, and also two large bags filled with sawdust, and the block on which they were to be beheaded. At four o'clock the next morning, February 21, the drum beat at the Horse Guards as a signal for the troops to assemble. In fact, the military force present on the occasion, like every other proceeding of Government in this affair, was most imposing. At six o'clock the Life-guards arrived, and took their station at the end of the different roads at the Obelisk, in St. George's Fields; whilst all the officers from Bow Street, Queen's Square, Marlborough Street, Hatton Garden, Worship Street, Whitechapel,

Shadwell, and other localities attended. There were parties of the Life-guards riding up and down the roads. At half-past six the prison bell rang—the signal for unlocking the cells. At seven o'clock five of the men—Broughton, Francis, Graham, Wood, and Wratten—went into the chapel, with the Rev. Mr. Winkworth. Macnamara, being of another persuasion, and Despard, being in his craziness an infidel, did not join them. The five attended to the prayers with great earnestness, but at the same time without seeming to lose that firmness they had displayed since their trial. Before they received the sacrament, four of them confessed they had done wrong, but not to the extent charged against them by the evidence. The fifth, Graham, said he was innocent of the charges brought against him, but had attended two meetings at the instigation of Francis. For some time the clergyman refused to administer the sacrament to Francis, because he persisted in declaring he had been guilty of no crime. The clergyman said to him, "You admit you attended the meetings." He replied, "Yes." "You knew they were for the purpose of overturning the constitution of the country. I by no means wish you to enter into particulars, I only wish you to acknowledge generally." Francis answered, "I admit I have done wrong in attending those meetings." The clergyman then asked each of them how they found themselves? Francis, Wood, Broughton, and Wratten said, "They were never happier in their lives." Graham remained silent. The sacrament was administered to them all.

Colonel Despard and Macnamara were then brought

down from their cells, their irons knocked off, and their arms bound with ropes. The sheriff asked Colonel Despard if he could render him any service. The colonel thanked him, and replied that he could not. Upon the colonel coming out, he shook hands very cordially with his solicitor, and returned him many thanks for his kind attention; then, observing the sledge and apparatus, he smilingly cried out, "Ha! ha! what nonsensical mummery is this?" Notice being given that all was ready, the colonel, who stood the first, retired behind, and mentioned to Francis, who was making way for him, to go before him. The hurdle, being a body of a small cart, on which two trusses of clean straw were laid, was drawn by two horses.

When the melancholy procession began, which was at half-past eight o'clock precisely, Macnamara was the first that came out. Colonel Despard was the last that appeared. He was dressed in a blue double-breasted coat, with gilt buttons; cream-coloured waistcoat, with narrow gold-lace binding; a flannel inside vest, with scarlet top turned over; grey breeches, long boots, and a brown surtout. He stepped into the hurdle with much fortitude, having an executioner on the right and on the left, and on the same seat, with drawn cutlasses. He was thus conducted to the outer lodge, whence he ascended the staircase leading to the place of execution.

As soon as the prisoners were placed on the hurdle, St. George's bell tolled for some time. They were preceded by the Sheriff, Sir R. Ford, the Protestant clergyman, the Rev. Mr. Winkworth, and a Catholic

clergyman, the Rev. Mr. Griffith, who attended Macnamara, who was a Catholic. The coffins, or shells, which had been previously placed in a room under the scaffold, were then brought up and put on the platform on which the drop was erected; the bags of sawdust to catch the blood when the heads were severed from the bodies were laid beside them. The block was near the scaffold; there were about a hundred spectators on the platform, among whom were some persons of distinction; the greatest order was observed. Macnamara was the first on the platform, and when the cord was placed round his neck he exclaimed, "Lord Jesus, have mercy upon me! O Lord, look down with pity upon me!" The populace were much struck by his appearance. Graham came second: he looked pale and ghastly, but spoke not. Wratten was the third: he ascended the scaffold with much firmness. Broughton, the fourth, joined in prayer with much earnestness. Wood was the fifth, and Francis the sixth. They were all equally composed.

Colonel Despard ascended the scaffold with great firmness, and his countenance underwent not the slightest change while the dread ceremony of fastening the rope round his neck and placing the cap on his head was performing; he even assisted the executioner in adjusting the rope: he looked at the multitude assembled with perfect calmness. The Protestant clergyman, who came upon the scaffold after the prisoners were tied up, spoke to him a few words as he passed; the Colonel bowed and thanked him. The ceremony of fastening the prisoners being finished, the colonel

advanced as near as he could to the edge of the scaffold, and made the following speech to the multitude:—

"Fellow Citizens,—I come here, as you see, after having served my country—faithfully, honourably, and usefully served it for thirty years and upwards—to suffer death upon a scaffold for a crime of which I protest I am not guilty. I solemnly declare that I am no more guilty of it than any of you who may be now hearing me. But though his Majesty's ministers know as well as I do that I am not guilty, yet they avail themselves of a legal pretext to destroy a man because he has been a friend to truth, to liberty, and justice."

There was a considerable huzza from part of the populace the nearest to him, but who, from the height of the scaffold from the ground, could not, for a certainty, distinctly hear what was said. The colonel proceeded:

"Because he has been a friend to the poor and distressed. But, citizens, I hope and trust, notwithstanding my fate, and the fate of those who no doubt will soon follow me, that the principles of freedom, of humanity, and of justice, will finally triumph over falsehood, tyranny, and delusion, and every principle hostile to the interests of the human race. And now, having said this, I have little more to add——"

The colonel's voice seemed to falter here; he paused a moment, as if he had meant to say something more, and had forgotten it. He then concluded in the following manner:—

"I have little more to add, except to wish you all health, happiness, and freedom, which I have endeavoured, as far as was in my power, to procure for you, and for mankind in general."

The colonel spoke in a firm and audible tone of voice: he left off sooner than was expected. There was no public expression, either of approbation or disapprobation, given when he had concluded his address. As soon as the colonel ceased speaking, the Protestant clergyman prayed with five of the prisoners, and the Catholic priest with Macnamara. However, to the very last, Colonel Despard obstinately refused all clerical assistance, nor would he even join in the Lord's Prayer. The executioner pulled the caps over the faces of the unhappy persons, and descended the scaffold. Most of them exclaimed, "Lord Jesus, receive our souls!" At seven minutes before nine o'clock the signal was given, the platform dropped, and they were all launched into eternity. After hanging about half an hour till they were quite dead, they were cut down. Colonel Despard was first cut down, his body placed upon the sawdust, and his head upon a block; after his coat and waistcoat had been taken off, his head was severed from his body by persons engaged for the purpose. The executioner then took the head by the hair, and carrying it to the edge of the parapet on the right hand, and on the left, held it up at each edge to the view of the populace, and exclaimed each time, "This is the head of a traitor, Edward Marcus Despard."

Despard's remains were then put into the shell that had been prepared for them. The other prisoners were also cut down, their heads severed from their bodies, and exhibited to the populace with the exclamation of "This is the head of another traitor," adding the name. The bodies were, like Despard's, put into their respective shells, and delivered to their friends for interment.

The execution was over by ten o'clock, and the populace soon after dispersed quietly. The remains of the six common men were deposited in one grave in the vault under the Rev. Mr. Harper's chapel, in the London Road, St. George's Fields. The body of Colonel Despard was taken from Mount-street, Lambeth, on the 1st of March, in a hearse drawn by four horses, followed by three mourning coaches, with four gentlemen in each, and was interred in the cemetery belonging to the parish of St. Faith, on the south side of St. Paul's Cathedral. A great crowd collected, and the City Marshal, with a guard, was present, lest there should be any disturbance; but all went off peaceably.

The *Times* of Monday, Feb. 28, 1803, thus refers to the burying of Despard's remains:—"The interment of Colonel Despard to-morrow will depend upon the arrival of his son, who has been sent for to France to be present on the occasion. This young gentleman is of respectable character, and has been in Paris about three months, with his wife. He was an ensign in Ireland, and was left a comfortable maintenance by his grandfather."

The melancholy state of infidelity exhibited by Colonel Despard on the scaffold formed a theme for the pulpit. I find, among the reviews in the *Gentleman's Magazine*, of 1804, the following notice:—"A Sermon on the depravity of the Human Heart, exemplified, generally, in the conduct of the Jews, and particularly in that of Lieutenant-Colonel Despard, previous to his execution; preached at St. George's, Hanover Square, Feb. 27, 1803, by the Rev. William Leigh, LL.D., morning preacher at the aforesaid church, and rector of Little

Plumstead, Norfolk." In this sermon occur the following passages :—

"The depravity of the human heart, from the creation to the present moment, is the strongest proof of the freedom of human agency and the origin of evil. Good and evil are set before man, and his choice is uninfluenced, and free. 'But, alas! how vain is the strength of man! How imperfect are his best resolutions! How prevalent his inclinations to commit sin! and how sturdy his self-justification after he has committed it! . . . . It is the miserable pride of modern reformers, to be equally independent of God and of man; to live without fear, and to die without compunction. The circumstances which marked the last moments of Colonel Despard, his refusal of the sacrament, his rejection of all spiritual consolation, and that of his dying with a lie in his mouth, are such as must fill every religious mind with lamentation and horror.'"

The trial of Colonel Despard presents coincidences with that of Governor Wall, that preceded it. Both Wall and Despard were men of family, and both came from nearly the same part of Ireland; both, by their own merit, rose to be colonels and governors of colonies, and both were eventually hanged in London—the one in the spring of 1802, and the other in the spring of 1803, and formed melancholy but happily very rare instances of military officers of rank suffering, for disgraceful offences, the extreme penalty of the law.

Another coincidence may be mentioned. The Hon. Spencer Percival, who was the Attorney-General at this trial, fell, in a few years afterwards, the victim of an

assassin, Bellingham, who was a kind of lunatic like Despard, and had a similar real or ideal cause of grievance—viz., inattention of the Government to the application or complaint he was making.

The learned and popular writer whom I have already quoted, Mr. Timbs, F.S.A., in his "Curiosities of London," thus points out, near the now-called Victoria Theatre, the scene of Despard's conspiracy: "In Oakley Street, at the Oakley Arms, November 16, 1802, Colonel Edward Marcus Despard and thirty-two other persons were apprehended on a charge of high treason; and in February following, the colonel, with nine of his associates, were tried by a special commission at the Surrey Sessions House: and being all found guilty, seven, including Despard, were executed February 21, on the top of Horsemonger Lane Gaol." Mr. Timbs further shows the spot to have been part of, or proximate to, the notorious "Pedlar's Acre" scene of many a misdeed and crime.

To the honour of the Despard family, it may be mentioned that its loyalty was no wise diminished by this, to say the least of it, when one considers the obvious state of his mind and the absurdity of his treason, very severe measure of justice dealt out to the unhappy colonel. His relatives continued to act gallantly and devotedly in the service of their country. Of the sons of his brother, Captain Philip Despard, one, at the age of thirty-one, Lieut.-Colonel William Despard, 7th Fusiliers, fell at the Pyrenees in the Peninsular War; and another, Henry Despard, rose by his own merit to be a general in the army and colonel of the 99th Regi-

ment. Killaghy, the seat of the Despards, in the County Tipperary, was sold by William Despard (father of the colonel of the trial) to his brother, Francis Green Despard, Esq., and the property descended eventually to Francis's great granddaughter, Catherine Despard, wife of William Wright, Esq., who assumed by royal licence, in 1838, the surname and arms of Despard.

THE COURT-MARTIAL

ON

VICE-ADMIRAL CALDER.

THE trial of that distinguished naval commander, Sir Robert Calder, Bart., Vice-Admiral of the White, differed from those of Byng, Sackville, and Keppel, in this, that it was not set on foot by an angry or partial Government, but arose entirely from the over sensitiveness of the gallant admiral himself, who could not submit to some unfavourable remarks which were made on his conduct for not pushing to the utmost the victory he had gained. He had defeated, in a great naval encounter, the combined fleets of France and Spain; but he had not completely crushed the enemy. Unfortunately, this occurred in the very centre of Nelson's triumphs, when not only that hero, but the whole British people might, to use Napoleon's term, be called "the spoilt children of victory." Calder, it was admitted, had acted with courage and sagacity; but he had not shown the peculiar—the almost supernatural daring of Nelson: hence the general murmur. Nelson himself told him not to mind the outcry, but to fight on. He unwisely did not follow the advice, but called for a court-martial, and brought upon himself a sad and un-

foreseen result. Before coming to the affair, a word or two of Calder's previous career is necessary. He was a man of good birth and ancient lineage, being the second son of Sir James Calder, third Baronet of Muirtoune, the head of a very old family in Morayshire. He was born at his father's house at Elgin, the 2nd July, 1745, and, when fourteen years of age, was a midshipman in the Royal navy. He rose in his profession with slow but well-earned promotion, until he was looked on as one of the bravest and safest officers of his day. He won his earlier laurels under Kempenfelt, Roddam (his brother-in-law), and Howe; and his conduct at the battle of St. Vincent obtained for him knighthood, and subsequently, in 1798, a baronetcy. Such was the seaman whose next victory was to be the cause of his undoing. Of the actual naval action and its consequences in bringing about the trial, I take the following lucid account from that excellent manual "British Naval Biography:"

"Calder was selected, in 1805, by Admiral the Hon. (afterwards Sir) William Cornwallis (the illustrious Marquess Cornwallis's youngest brother), who then commanded the Channel fleet, to blockade the harbours of Ferrol and Corunna. The force entrusted to him on this occasion was very inadequate; for, although there were then five French ships of the line and three frigates, and five Spanish line-of-battle ships and four frigates, all ready for sea, in these ports, yet he had only seven sail allotted to him; these, indeed, were afterwards increased to nine; but although he repeatedly requested two frigates and some smaller

vessels, they never were sent to him. He, however, retained his station, notwithstanding the manœuvres of the Brest fleet; and on being joined by Rear-Admiral Stirling, on the 16th of July, with five sail of the line from before Rochfort, together with a frigate and a lugger, he proceeded to sea, for the express purpose of intercepting the French and Spanish squadrons from the West Indies, which were supposed to consist of no more than sixteen capital ships. Soon after this the combined fleet, of twenty sail of the line, seven frigates, and two brigs, were descried; while the English force amounted to no more than fifteen ships of the line, two frigates, a cutter, and a lugger.*

"Although the disparity on this occasion was sufficiently startling, Sir Robert did not hesitate in determining to bring the enemy to action. This battle, which gave rise to so much discussion, occurred in lat. 43° 30′ north, and long. 11° 17′ west, or about 40 leagues from Ferrol, on the 22nd of July. The British Vice-Admiral formed his fleet in compact order, and made a signal to attack the centre of the enemy; upon which the *Hero*, of 74 guns, that led the van squadron, fetched close up under the lee of the combined fleet, so that when our headmost ships had reached the enemy's centre, their vessels tacked in succession, which obliged Sir Robert to perform the same evolution. The battle that immediately followed lasted upwards of four hours, and the

* The French and Spanish fleet (commanded by Villeneuve and Gravina) consisted of one of 90 guns, two of 84, four of 80, eleven of 74, and two of 64. The English, of three of 98 guns, two of 84, eight of 74, and two of 64.

enemy, notwithstanding their great superiority of numbers, and every advantage of wind and weather, lost two large Spanish ships, the *Rafael*, of 84, and the *Ferme*, of 76 guns.

"A heavy fog had prevailed during the greater part of the day; and a short time after the engagement commenced, it became so dense, that the English commander was scarcely able to see his ships ahead or astern, by which he was prevented from following up his advantage. This, in all probability, saved the enemy from total defeat. As it was, Sir Robert did not judge it prudent to hazard his fleet under such circumstances; and afraid, perhaps, of risking the advantage he had already acquired, he brought-to, in order to cover his prizes. The French and Spanish fleet could have renewed the engagement, during the two days that followed, having the advantage of the windward, and the British repeatedly, by hauling on the wind, incited them to the conflict, but this M. Villeneuve as constantly declined (and thus reserved himself for a worse fate at Trafalgar). On the 24th the wind changed, by which the British had the weather-gauge; but Sir Robert Calder, not thinking it advisable to assume offensive measures, the two hostile fleets separated.

"The vice-admiral was not only conscious that he had done his duty in this affair, but also merited the approbation of his country. He had kept the sea with a very inadequate force, instead of returning into port; he had successfully blockaded a greatly superior fleet for nearly five months; and at sea, he had fought a battle, and captured two large ships, under circumstances where

not to be defeated was equal to the honour of a victory. The advantage lay so wholly on his side that the adversary, although repeatedly menacing a farther trial, had been content to forego the opportunity, and at last to sheer off. All this was rightly appreciated by his commander-in-chief, Admiral Cornwallis, who sent him back to Ferrol on the 17th, with twenty sail of the line. But, unfortunately, a different estimate of these circumstances was formed at home. The nation had lately been pampered with naval victories; the Lords of the Admiralty murmured; and, because the enemy had not been completely worsted, it was alleged that the honour of the British flag had been sullied. Bitter representations to this effect were set forth in the public prints; and when these reached the vice-admiral, their effects on his honourable spirit may be easily imagined. He immediately demanded a public trial from the Lords of the Admiralty; and, in spite of the solicitations of Nelson, who besought him to remain, and share in those approaching triumphs of the fleet by which every calumny would be refuted, he returned to Spithead in the *Prince of Wales*, on board of which a court-martial assembled on the 23rd of December, 1805."

The officers who sat on the court-martial were George Montagu, Admiral of the White, and Commander of His Majesty's ships and vessels at Portsmouth and Spithead, President. Vice-Admirals: John Holloway, Bartholomew Samuel Rowley, and Edward Thornborough. Rear-Admirals: Sir Isaac Coffin, Bart., and John Sutton. Captains: James Bissett, Robert Dudley Oliver, John Irwin, James Athol Wood, John Seater,

the Hon. Thomas Bladen Capel, and John Larmour. M. Greetham, Deputy-Judge Advocate of the fleet, conducted the prosecution.

The court being opened, Vice-Admiral Sir Robert Calder being called in, entered, attended by the Deputy-Marshal of the Admiralty.

The Order for the trial, dated the 15th of November, 1805, and directed to George Montagu, Esq., Admiral of the White, and Commander-in-Chief of Her Majesty's ships and vessels at Portsmouth and Spithead, was read, and was as follows:—

By the Commissioners for Executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, &c.—Whereas Sir Robert Calder, Bart., Vice-Admiral of the Blue, hath, by his letter to our Secretary, dated the 30th of September last, requested, for the reasons therein mentioned, that an inquiry may be made into his (the said vice-admiral's) conduct, on the 23rd of July last, the day after his engagement with the combined fleets of France and Spain, or, upon the whole, or such part thereof (when in presence of the enemy) as shall appear for the good of His Majesty's service, and for enabling him to give his reasons publicly for his conduct on that occasion:

And whereas we have thought fit, in compliance with the vice-admiral's request, and for the reasons mentioned in his said letter, that a court-martial shall be assembled for the purpose above-mentioned, and also for inquiring into the whole of the said vice-admiral's conduct and proceedings on the said 23rd of July last, and into his subsequent conduct and proceedings until he finally

lost sight of the enemy's ships: And to try him for not having done his utmost to renew the said engagement, and to take or destroy every ship of the enemy, which it was his duty to engage: We send you herewith, Sir Robert Calder's above-mentioned letter of the 30th of September last, and do hereby require and direct you to assemble a court-martial, as soon as the witnesses deemed necessary to be examined on this occasion shall be ready, which court (you being President thereof) is hereby required and directed to inquire into the conduct and proceedings of the said Vice-Admiral Sir Robert Calder, with His Majesty's squadron under his command, on the said 23rd of July last, and also into his subsequent conduct and proceedings, until he finally lost sight of the enemy's ships, and to try him for not having done his utmost to renew the said engagement, and to take and destroy every ship of the enemy, which it was his duty to engage accordingly.

Given under our hands, the 15th of November, 1805.

BARHAM. J. GAMBIER. PHILIP PATTON.

By command of their Lordships,

W. MARSDEN.

After the Members of the Court and the Deputy Judge-Advocate of the fleet were severally sworn, the President then said: Sir Robert Calder, one of your witnesses, Captain Prowse, is absent, are you willing that the court should proceed without him, or would you wish the trial to be postponed? And Sir Robert

Calder answering that he wished the trial to proceed, his letter of the 30th of September to the Secretary of the Admiralty, desiring the inquiry, was then read, and was as follows:—

"PRINCE OF WALES," off Cadiz,
"*September* 30, 1805.

"Sir,—Having learnt with astonishment, yesterday, by the ships just arrived, and by letters from my friends in England, that there has been a most unjust and wicked endeavour to prejudice the public mind against me as an officer, and that my conduct on the 23rd of last July, in particular, has been animadverted on, in the most unjust and illiberal manner; for such it must be deemed, having been done at a time when I was absent abroad, employed in the service of my king and country.

"I must, therefore, request you will be pleased to move the Lords Commissioners of the Admiralty to grant an inquiry into my conduct on the 23rd July last, or upon the whole, or such part of it (when in presence of the enemy), as shall appear to their lordships, for the good of His Majesty's service, and for the purpose of enabling me to give my reasons, publicly, for my conduct at that time, and to refute such unjust, illiberal, and unfounded assertions, when I trust I shall make it appear to the satisfaction of my King, country, and friends, that no part of my conduct and character, as an officer, will be found deserving of those unfavourable impressions, which, at present, occupy the public mind, being conscious that everything in my power, as

an officer, was done for the honour and welfare of my king and country, after a very mature investigation of all the existing circumstances, and the very critical situation I was placed in, with the squadron I had the honour to command, at the time alluded to.

"I am, Sir,

"Your most obedient humble servant,

"R. CALDER."

"William Marsden, Esq.,

"Admiralty."

The trial then proceeded: the witnesses were, of course, chiefly the admirals and captains who had acted under him in the engagement. The point at issue was brief, and simply this: Did or did not the admiral do his best to renew the battle which had already gone in his favour? The witnesses for the prosecution inferred, rather than positively said, he did not; the witnesses for Calder, to a man, asserted that a renewal of the fight was beyond his power.

The following are the mainly pertinent and interesting portions of the evidence for the prosecution:—

Rear-Admiral Charles Stirling, who in "the *Glory*," shared in the action, showed in his testimony a bias against Calder. He was asked:—

Q. Did the vice-admiral make any signal, or show any disposition to endeavour to renew the action?

A. I have before stated, that it appeared to me, that the admiral's object was to keep company with the crippled ships on that day; and I saw no other signal indicative of an intention to renew the combat, after he had asked, if any of the ships wanted to lay to.

Q. Did the vice-admiral take any steps to direct the British fleet to bear up after the enemy on the 24th?

A. The British fleet continued standing from the enemy from the time I before mentioned that we were.

Q. Could the British fleet have pursued the enemy with advantage on the 24th, they steering to the southward and by east, and the wind being N. and by E.?

A. I don't know any objection to the British fleet following the enemy, if the admiral had thought proper to do so.

Q. Did the vice-admiral at any time on the 24th show any disposition to renew the action?

A. I think that question answered by the preceding one.

Court.—That is a specific question.

A. We continued, as I said before, to steer from the enemy.

Q. Did the vice-admiral, according to your remarks and observations, do everything that might have been done to renew the action, and to take and destroy every ship which it was his duty to engage?

A. We never attempted to renew the action, or laid our heads towards the enemy, as I have said before; it appeared to me the admiral's object was to cover the crippled ships.

Court.—At the time the British fleet bore down to the crippled ships, in what state was the *Windsor Castle?*

A. She appeared to have lost her fore-top-mast, and not able to make sail.

Q. What other ships of the British fleet were unable to keep company with the vice-admiral, had he endeavoured to bring the enemy to action?

A. I don't know that any other ship was disabled.

Sir R. Calder cross-examined Admiral Stirling thus:

Q. Did you receive a letter from me, on service, after the action?

A. Yes; I had two letters from Sir Robert Calder, after the action, on service, of different dates.

Q. Did the first give any reason, and what, for standing to the northward, with the *Windsor Castle* and prizes.

A. I have the letter here.

Court.—That will be most satisfactory.

The letter was then read.

"PRINCE OF WALES," at Sea,

"*24th July*, 1805.

"My dear Sir,—Permit me to return you my most heartfelt thanks for your unremitting attentions, and for the very gallant support you rendered me during the whole of the action on the 22nd instant. Had the weather been favourable, and we could have seen to have made the necessary signals, to have availed ourselves of some of the mistakes of the enemy, I am fully convinced we should have made the victory much more complete. I was obliged to stand to the northward thus far, in order to cover the *Windsor Castle*, and the two captured ships. I think they are now safe from the combined, as well as the Rochefort squadron, and I am going back to Cape Finisterre, in hopes of seeing Lord Nelson; if I do not, I shall proceed off Ferrol, to see if any favourable opportunity should offer, when I may hope to attack the enemy with advantage. Wishing us all possible success,

"I am, my dear Stirling,

"Ever yours most truly and sincerely,

"(Signed) ROBERT CALDER."

Sir Robert Calder produced a letter, and said, is this the answer to that letter?

A. It is not the answer, but is written in reply. I sent, by the same conveyance, a letter to the vice-admiral on public service.

Sir Robert Calder.—You will observe they are not of the same date—one is the 24th, the other the 25th.

The letter from Rear-Admiral Stirling was then read.

"GLORY, *25th July*, 1805.

"My dear Sir,—I thank you much for your letter of yesterday; and can assure you, with great truth, I meant, and do mean to give you all the support in my power.

"I hope you made a good tale to please John Bull, for you had a good subject to write on; and I think you have convinced Mons. Bonaparte that he cannot always get to sea and home again with impunity.

"Excuse haste, and believe me,

"Most truly yours,

"(Signed) CHAS. STIRLING."

"Sir Robert Calder, Bart.

A. I should not have written so to my commanding officer, on public business: that was a private letter.

A conversation took place about the reading the public letter.

Sir Robert Calder.—"I have no wish that any paper should be withheld; but, if the rear-admiral has any objection, I do not wish this should be read."

Rear-Admiral Stirling.—"I have no objection."

The letter was then read.

"GLORY," *24th July*, 1805.

"My dear Sir,—I congratulate you on the capture of the two Spaniards from a force so very superior to that opposed to it, and I think, if the three ships, which at one time showed a disposition to support them, had followed the intention, the consequence might have been decisive.

"The great object I had in view was to obey your orders, by keeping in a compact line, whilst the signal for that purpose remained in force, and therefore, as the *Raisonable* closed with you, my captain took care that nothing could pass between her and this ship.

"On the surrender of the Spaniards, I directed the *Warrior* to send and assist in taking possession, and afterwards sent similar orders to the *Thunderer*, as there was no knowing, from the thickness of the weather, what might otherwise be the consequence, if your attention was confined to the van. I likewise ordered the *Egyptienne*, when I got sight of her, to get the prizes on the same tack with us, and to tow them to leeward of our line, which orders will, I hope, meet with your approbation. I know not why there was a separation in the night. Captain Linzee went in pursuance of his instructions, and rejoined me before the morning.

"We had only one man killed, and four wounded; the fore-yard was grazed, which we have fished; and what was otherwise hit, was not of any consequence.

"I have great pleasure of bearing testimony to the

zeal of Captain Warren and his officers, and feel much confidence from the good conduct of the crew belonging to the ship where my flag is flying, if our good fortune should again lead us against the foes of our country.

"Believe me, with great esteem, dear Sir,

"Your most obedient humble servant,

"(Signed) CHARLES STIRLING."

"Sir Robert Calder, Bart."

Rear-Admiral Stirling.—I believe that letter was sent to the admiral on the 25th, and I had the honour to wait upon him in the afternoon, by his permission; and to the best of my recollection that was my reason for not returning an official answer. I do not recollect any other communication with the admiral, from about midnight of the 22nd.

Q. Did I not always place the British squadron between the enemy and the *Windsor Castle* and prizes, when they were in tow?

A. The British fleet was always between them.

Q. Was not the British squadron always placed by me between that of the enemy and the port of Ferrol, while the enemy remained in sight?

A. The British fleet was nearer to Ferrol than the enemy, till they crossed our stern on the 24th.

Q. When they crossed our stern could the enemy have fetched Ferrol?

A. I do not think they could, as we had the wind.

Court.—What distance was the British fleet from Rochefort, on the morning after the action?

A. I don't know; the chart will tell. By my master's

reckoning, Cape Finisterre bore S.E. and by E. forty leagues.

Rear-Admiral George Martin, who was captain of the *Barfleur* in the action, was asked,—

Considering the wind, and the relative situation of the two fleets, during the 23rd of July, could the British fleet have neared the enemy, and renewed the engagement?

A. The enemy being rather abaft the beam, the British fleet would have neared the enemy had they tacked. But whether they could have renewed the engagement, I cannot say. That must, in great measure, have depended on the enemy, they being to windward.

Q. Did the vice-admiral make any signal, or show any disposition to renew the action on that day?

A. No.

Sir Robert Calder put in the following paper, which was read:—

"I admit I did not show any such disposition, except by hauling my wind when the enemy bore down, as by doing so I must have separated myself from the crippled ships and prizes."

Rear-Admiral Martin was further asked,—

Did the vice-admiral, from your remarks and observation, do everything in his power, that he might have done, from the morning of the 23rd, till you lost sight of the enemy, to renew the engagement, and to take and destroy every ship which it was his duty to engage?

A. I consider I have answered that question by

saying on neither day did he stand towards the enemy.

Sir Robert cross examined Admiral Martin:—

Q. Could I have pursued the enemy on the morning of the 24th, without separating the rest of the squadron from the *Windsor Castle* and prizes, and from the frigates which had them in tow?

A. Certainly not, without separating from the prizes; and not under a press of sail, without separating from the *Windsor Castle.*

Q. Did I not always place myself between the enemy and the *Windsor Castle* and crippled ships, while in tow?

A. It appeared to me to be the intention of Sir Robert Calder to keep company with them, from the time of the action, till they separated by signal.

Q. You understood that for their protection?

A. Certainly.

Q. Was not the British squadron always placed by me between the enemy and the port of Ferrol, as long as the enemy remained in sight?

A. We certainly were between them; but whether the position was taken for that purpose or not, I cannot say.

Captain Philip Charles Durham, of the *Defiance*; Captain Henry Inman, of the *Triumph*, who were also both in the action, were the other two principal witnesses; their testimony did not add much to the weight of the prosecution. After their evidence was given, the court adjourned to Thursday, the 26th of December, 1805, when Sir Robert Calder delivered in his defence,

and requested that it might be read by a friend (Mr. Gaselee),* and the court intimating their consent, the same was read. It opened thus:—

"MR. PRESIDENT, AND GENTLEMEN OF THE COURT, —I appear before you in a singular, I may almost say an unprecedented, situation. Having served my king and country, not only without reproach, but, I may add, with some degree of reputation, for upwards of forty-six years, during which I have been more than once honoured with marks of approbation from my sovereign; having for the last ten months been employed on a most severe and critical service, without once being in port; and having in the course of it, with a very inferior fleet, forced a superior one of the enemy, who had the advantage of wind and situation, into action, and obtained a decisive victory over them, I felt myself impelled to solicit the present inquiry, for the purpose of vindicating my honour and my character from a variety of injurious and unfounded aspersions which have been cast upon me, in consequence of the not having renewed the engagement during the two days that the enemy afterwards remained in sight. The consciousness of my having done my duty, would, however, have induced me to treat these aspersions with contempt, had they not become so general that I was apprehensive that silence on my part would be con-

* This was Mr. Gaselee, an eminent advocate and lawyer, who became eventually Sir Stephen Gaselee, and a Judge of the Court of Common Pleas. He was father of the present Serjeant Gaselee, M.P. for Portsmouth. Mr. Gaselee was virtually counsel for Sir Robert Calder, but no counsel to speak for the accused are openly allowed at a court martial.

strued into an acknowledgment of their truth, and an admission of my own misconduct; I found myself, therefore, under the necessity of applying to the Lords of the Admiralty, to order an inquiry into my conduct, that I might be enabled to state publicly the reasons which actuated it throughout, and to refute the illiberal and unfounded assertions which had been made against me. To this they have been pleased to assent; and although, in a subsequent letter of the 10th of November to that which accompanies the order for your assembling, I requested that the court might be empowered 'to inquire into the whole of my conduct, even prior to my falling in with the enemy, while in their presence, and subsequent thereto,' they have thought it right to confine it to *the 23rd of July, and my subsequent conduct and proceedings*, until I finally lost sight of the enemy's ships, and to direct me to be tried for not having done my utmost to renew the engagement, and to take and destroy every ship of the enemy, which the charge asserts it was my duty to engage. I consider this, therefore, as a declaration by their lordships, that this is the only part of my conduct upon which any particle of doubt can by possibility attach, or of which any explanation can be requisite. At the same time, however, I cannot but lament that the inquiry is so limited; as it prevents my giving evidence of the circumstances of the action, which I have no doubt I should have proved to have been such as to add to the reputation of the British navy.

"As to defending myself against this charge, I trust I shall be able to satisfy the court and the public, that the

not renewing the engagement, if it was practicable to have done it, was not only justifiable, but the most proper and prudent course, under all the circumstances, to be adopted; and that the attempting to force a renewal of the action, might not only have endangered the safety of my own fleet, but eventually that of the country itself; I shall request the indulgence of the court, to be permitted to enter fully into all the circumstances, and to lay before them the particular situation in which I was placed, the orders I had from time to time received, and the reasons which induced me not to attempt a renewal of the action; confident that when I have done so, all the prejudices that have been hitherto entertained, will be dissipated, and that by your judgment I shall be restored to the good opinion of my country,—that country for which I have bled, and for which I have conquered.

"Before, however, I enter into the particular statement, permit me to make an observation or two on the specific charge, which is the principal object of your inquiry. It does not range itself precisely within any of the Articles of War, though it in part adopts the language of one of them. It assumes as a principle, that it was my duty to renew the engagement, and to endeavour to take or destroy every ship of the enemy.

"I am ready to admit, that it is so much the duty of an officer to engage the enemy wherever he meets with them, that it is incumbent upon him to explain satisfactorily why he does not; but, in making that explanation, it is not necessary for him to prove the physical impossibility of doing so. It may be possible, and yet

there may be very many reasons why he should not. Indeed, the absurdity of a contrary position is such, that it would be an idle waste of time to trouble the court with many observations upon it.

"They will, however, permit me to observe, that mine is not the only instance in which a British fleet has laid in sight of that of the enemy without renewing the engagement.

"In proof of this assertion, if it be necessary, I need only recal to your memory, out of many others, the example of two very great and gallant officers, who after obtaining most brilliant victories over the enemy, did not think themselves justified in bringing them a second time to action, although they were in sight of them fully as long as I was. The two meritorious officers to whom I allude are, Earl Howe, in the action of the 1st of June, 1794, and Earl St. Vincent, in that of the 27th of February, 1797. Of the latter, I am competent to speak from my own knowledge, having had the honour to serve under his lordship as captain of the fleet in that engagement.

"Of the propriety of the conduct of these noble lords, in both instances, no doubt has at any moment been entertained by any body. They certainly exercised a sound discretion upon that occasion; but it may not be improper for me to remark, that, although the advantages they had acquired were certainly superior to mine; that mine was a situation in which it was in every respect more necessary to exercise that discretion, which, in every case, must be vested in the commander of a squadron, to judge of the propriety or

impropriety of offering battle to a superior fleet. In the instances above-mentioned there was no other force to contend with, no other quarter from which an attack was to be apprehended, than the fleets which had been already engaged. In mine, it behoved me to be particularly on my guard against the Ferrol and Rochefort squadrons, consisting of twenty-one sail of the line, both which, I had reason to believe, were out, and *one of which appears to have been actually at sea,* and to which the squadron opposed to me might easily have given notice of their situation, as will be hereafter more fully stated.

"With these observations I shall dismiss this part of the case for the present, and proceed to lay before the court a statement of the facts, to which I am to request their serious attention."

The Vice-Admiral then went into a complete detail of his conduct prior to, at, and after the action. He thus referred to the actual battle:—

"On the 22nd of July, about noon, the combined squadrons came in sight. Their force, consisting of *twenty sail of the line, seven frigates, and two brigs;* a much greater force than, as I before stated, Admiral Cornwallis supposed them to consist of. And it appears, from Lord Gardner's letter to me of the 6th of July, that when seen off the Diamond Rock, at Martinique, on the 16th of May, they consisted of sixteen sail of the line, and six frigates.

"My force consisted of *fifteen sail of the line, two frigates, the Frisk cutter, and Nile lugger.*

"Notwithstanding this superiority, and notwithstand-

ing they had the advantage of the wind, I forced them to action. The general result of it you are already acquainted with. As it is not particularly the object of your inquiry, it is unnecessary to take up your time with observations upon it.

"Amidst the numerous prejudices that have assailed me, I have never yet heard the slightest insinuation to my disadvantage, either as to the mode of the fleet being carried into, or conducted in action. The victory certainly was ours, and most decisively so. I have only to lament that the weather did not afford an opportunity of making it more complete. Such was the valour and intrepidity of my second in command, and of every officer and man of my squadron, that, but for the weather, I am satisfied it would have been so. As it was, there are but few instances, and those of modern date, in which *even equal* numbers have been so successful. . . . ."

His defence concluded thus:—

"The question before you is a great and momentous one,—it affects every officer who has been, or at any time may be, in a situation of command. Miserable, indeed, must be their condition if they are to be censured for the fair and honest exercise of the discretion necessarily resulting from such a situation. I have ever felt, that in my case, I have exercised it wisely and beneficially; I still feel so, and were I again placed in the same situation, I should act in the same manner; unless this court, putting themselves in the situation I then was, and considering all the circumstances that at that time presented themselves to my consideration,

and the various objects to which my attention was necessarily directed, shall tell me I have acted erroneously. This I trust they will not do.

"If, in the discussion of this question, I may be allowed to look to subsequent events, they, I think, will fully justify the line of conduct I adopted. By it I was enabled, after receiving a reinforcement, to pursue the combined squadrons to Cadiz, and thereby perhaps to have laid the foundation of that glorious victory (Trafalgar) which we have so recently celebrated. Believe me, gentlemen, the circumstance of having, by the various calumnies which have been spread, been put under the necessity of soliciting the present enquiry, and thereby been prevented from being a sharer in the glories of that day, has been no small addition to the various sufferings I have undergone.

"These sufferings, I trust, will now have had their period, and the opinion of this court will, I flatter myself, confirm me in that estimation with the profession and the public, which I have for so many years enjoyed, and to restore me unsullied that fair fame and reputation which has on this occasion been so cruelly and unjustly attacked."

In support of the defence, the Gazette and several official letters were read, approving his conduct throughout the encounter. Nine officers, the Hon. Captain Gardner, the Hon. Captain Legg, Captain Boyles, Captain Lechmere, Captain Brown, Captain Cuming, Captain Griffiths, Captain Elphinstone-Fleming, and Lieutenant Warrand, and the Rev. John Souter, chaplain of the *Prince of Wales* (Admiral Calder's ship),

all witnesses of the engagement, spoke strongly in favour of the Vice Admiral, and bore out the view that he could not renew the engagement. The evidence of each is so nearly alike that I need here only give the statement of one or two.

In Captain Lechmere's examination Sir Robert Calder asked:—

Q. Did the enemy ever chase or make any attempt to force me to action on the 23rd of July?

A. No.

Q. Could I have forced the enemy to action on the 23rd of July, if they had chosen to avoid it?

A. No.

Q. Did the enemy appear to you to have sustained any considerable damage to their masts and yards?

A. None in their masts. They shifted a top-sail-yard or two, and that, I believe, was the utmost.

Q. Was the British fleet always kept between the enemy and Ferrol as long as they continued in sight?

A. Till the afternoon of the 24th we were always nearer Ferrol, than the enemy was?

Q. Could they then have fetched Ferrol?

A. Certainly not, the wind was then N.E. and by E.

Q. If I had gone towards the enemy on the 24th, could I have overtaken them, if they had chosen to avoid me, without approaching so near the shore between Ferrol and Cape Finisterre, as to have enabled them to have communicated by land signals with Ferrol?

A. No.

Captain W. Cuming, of the *Prince of Wales*, was asked by Sir Robert Calder: —

Q. As you were near my person during the whole time of the action of the 22nd, was any part of my conduct to be attributed to fear, or a want of zeal for his majesty's service?

A. Most certainly not.

Court.—Captain Cuming, what number of the British ships appeared to you, on the morning of the 24th, incapable of sailing in line-of-battle or order of sailing?

A. I imagine the whole, except the *Windsor Castle*, might have been formed in line-of-battle.

Q. If the *Windsor Castle* had been taken in tow, considering the relative situation of the two fleets, could the British squadron have renewed the action on the 24th, the enemy declining so to do?

A. Certainly not.

Q. Did the vice-admiral decline the action, either on the 23rd or 24th, if the enemy had been inclined to renew it?

A. He did not.

Sir R. Calder.—Mr. President, I conceive Captain Cuming to be the only person competent to speak to the question I put to him, or I should have no difficulty in submitting the same to every captain in the fleet.

Notwithstanding this testimony, and to the surprise of most present and the public generally, the court came to an adverse decision. Its judgment was this:—

"The court is of opinion, that the charge of not having done his utmost to renew the said engagement,

and to take or destroy every ship of the enemy, has been proved against the said Vice-Admiral Sir Robert Calder, that it appears that his conduct has not been actuated either by cowardice or disaffection, but has risen solely from error in judgment, and is highly censurable, and doth adjudge him to be severely reprimanded; and the said Vice-Admiral Sir Robert Calder is hereby severely reprimanded accordingly."

The *Gentleman's Magazine* of the time thus records the effect of this judgment upon Calder:

"Upon the sentence being pronounced, Sir Robert Calder appeared deeply affected—he turned round, and retired without a word. He was accompanied by a great number of friends, and, on descending from the deck of the *Prince of Wales* into his barge, scarcely lifted up his head, which was apparently bowed down by the weight of the sentence upon him. He is in his sixtieth year; forty-six of which he has passed in the service of his country."

This judgment of the court-martial has been since, by most naval writers, looked on, if not as quite erroneous, at least as extremely severe. One circumstance made people the more regret it. It was passed at the very time when there lay, encircled by a halo of victory, in Greenwich Hospital, awaiting a State ceremonial, the dead body of Nelson, who before he himself annihilated at Trafalgar the very admirals and some of the very vessels Calder encountered, had openly approved of Calder's conduct. The public soon veered in Sir Robert's favour, and the sentence did not prove popular. It was spoken against in Parliament, and it was

everywhere felt that a true and valuable British commander had been hardly dealt with. Restitution was subsequently proferred to Calder in the appointment, which he accepted, of admiral in command at Plymouth. But the trial broke his spirit, and it was remarked that he never was the same energetic man again. His amiability, social manners, and sound good sense, however, lasted to his death, and during his final retirement he continued to experience the greatest respect and attention not only from the Admiralty, but from a host of friends and from persons of all rank and station. He died at Holt, near Bishops-Waltham, Hants, on the 31st Aug. 1816; and as he left no issue by his wife, Amelia, daughter of John Mitchell, Esq., of Bayfield, Norfolk, his own baronetcy became extinct. The baronetcy of his family, however, continues, and is now held by his nephew, Sir Henry Roddam Calder, the fifth Bart. of Muirtoune.

TRIAL OF GENERAL SIR ROBERT WILSON AND OTHERS FOR THE ESCAPE OF LAVALLETTE.

One of the most wonderful historic events that occurred on the second Restoration of the Bourbons, in 1815, was the escape from his condemned cell of Marie Chamant, Count de Lavallette, through the means of his devoted wife, Emile Louise, daughter of the Marquis of Beauharnais, niece of the Empress Josephine, and cousin in blood of Napoleon III. This escape was not without parallel, for, just one hundred years before, by a similar act of heroism, a wife, the Countess Winifred, of the noble and illustrious house of Herbert, daughter of William, Marquis of Powis, freed her husband, William Maxwell, fifth Earl of Nithsdale, from the Tower of London, where he lay under sentence of immediate death for joining in the Rising of 1715. It is a curious fact that in either case some suspicion has attached to the Sovereign then reigning of not being altogether uncognisant of, or adverse to, the successful attempt at issue. George I., satiated with Jacobite blood, and not so intent on

punishment as his Government and adherents, may not have secretly connived, but certainly did evince satisfaction, at the happy result of Lady Nithsdale's daring act. "It is," he exclaimed, "de very best ting a woman can do for a man in his condition." A still stronger notion exists, to the honour of Louis XVIII., that a hint, if not actual help, as to what Madame Lavallette was to do, came from him. The fury of the supporters of the House of Bourbon at the second Restoration was without control. Labédoyère had been executed; and that still worse piece of cruelty, a deed never forgotten by the public, and eventually fatal to the Bourbon dynasty, had been just consummated—the consignment to a traitor's death of Marshal Ney, "the bravest of the brave." France already murmured; and it is natural to suppose that Louis's own good sense and humanity revolted at continuing such slaughter. He dared not, such was the violence of his party, openly interfere; but one cannot carefully read the whole affair of Lavallette without being struck with some circumstances in it. How was it, for example, that Louis XVIII., after refusing to see Mesdames Labédoyère and Ney, come to beg their husbands' lives, admitted Madame Lavallette on the same errand, to a personal and private interview, where but little ever transpired of what passed? How was it that the gaoler, without bribe, acted so glaringly in Lavallette's favour? How, too, did Lavallette live so long sheltered in the Foreign Office? And how was it that the party who harboured him was never brought to account? Then there were the lenient sentence passed on Wilson and his associates, and finally, the ready par-

don granted, in a few years afterwards, by King Louis to Lavallette himself. This curious question, however, admits of more discussion than can be accorded to it here. I pass from it, and from the oft-told story, (and nowhere better told than in "Chamber's Miscellany" and Sir Bernard Burke's "Romance of the Aristocracy,") of the evasion from prison of Lavallette, as effected by his wife. I pass over, also, his wonderful concealment in the mansion of the Minister of Foreign Affairs, and I come to the actual cause of the following trial, which is connected with our army in this, that two of the accused were British officers, and their object was effected through the facilities then afforded by the British military occupation of France.

Let us, therefore, take it that Lavallette, Postmaster General under Napoleon, had, on news of the famous return from Elba, violently, and, as far as the King's Government was concerned, treasonably, resumed his place at the head of the Post Office, and had stopped the Bourbon proclamations and forwarded those of his Imperial master. For this complicity, as it was termed, with Napoleon against the royal authority and the safety of the state, Lavallette was, on the 20th November, 1815, tried and condemned to die, and his appeal to the Court of Cassation was rejected. His wife on the eve of his execution had got him out of prison, and he lay precariously hidden in an apartment of the Foreign Office. What followed cannot be better given than from Count Lavallette's own narrative:

"These," he writes, "are the particulars. The Princess de Vaudemont, uneasy at knowing me to be still in

Paris, though she was not acquainted with the place of my concealment, looked about for persons who might help me away. She spoke of her anxiety to Madame de St. Aignan Caulaincourt, one of the cleverest women born in France, whose kindness is inexhaustible, and whose courage is unbounded: she proposed to the Princess to sound a young Englishman, Mr. Bruce, who used to visit both their houses. Bruce, delighted at the idea of saving an unfortunate man who had escaped the scaffold in so wonderful a manner, accepted with enthusiasm the proposal of the ladies, and went immediately to consult Sir Robert Wilson on the subject.

"Sir Robert shared his young friend's enthusiasm. He had failed in his attempt to save Marshal Ney, but he hoped to take his revenge in my case. He made quite a military expedition of the business; and, as Bruce was not in the army, it became necessary to find one or two officers, independent men, of liberal opinions, who might be disposed to play off a good trick on the Government of the Bourbons. The road to Belgium, by Valenciennes, was specially assigned to the English army, and it was therefore chosen for my escape. They asked no more than two days to finish their preparations. I received a very particular instruction concerning my dress; no mustacchios, and English wig; my beard shaved very clean, after the manner of the officers of that nation; a great-coat, with buttons of the English Guards; the regimentals and hat were to be given to me at the instant of our departure.

"We held a council, and, as it occurs in most cases, our first steps were wrong. It was looked upon as very

necessary to get my coat made by the tailor of an English regiment, but he would want my measure; my friend Stanislaus took it with fine white paper; and instead of the notches that the tailors are accustomed to make, he wrote on it, '*Length of the forearm, breadth of the breast,*' &c., in a fine neat hand, and carried it boldly to the tailor of the regiment of the Guards. He quickly made the coat, however—not without observing that the measure had not been taken by a tailor. M. Bresson had been to buy me another great-coat at an old clothes' shop, and was naturally obliged to measure it on himself. He was tall and thin, so that in less than forty-eight hours I had two coats, neither of which could be of any service to me. I had no boots, and all our speculations were useless in contriving to procure me a pair. I was forced to put on a pair belonging to M. Bresson: they were at least two inches longer than my foot; I could scarcely walk in them, and we all laughed much at the awkward figure I cut. On the 9th of January, 1816, at eight o'clock in the evening, I at last took leave of my kind friends (at the Foreign Office).

"We stopped at the house, in the Rue de Helder, near the Boulevard: there I took leave of my friend Chassenon. As I walked slowly up the stairs, I was surprised at meeting Mademoiselle Dubourg. There would have been too much danger in our appearing to know each other. I afterwards learned that she was going to M. Dupuis, my Reporting Judge, who lived on the second floor of the house; so that I was going to pass the night under the same roof with the magistrate who had, during my trial, examined me twice at length,

and with great severity. This circumstance, however, by no means troubled me. M. Dupuis was an honourable man, to whom I had shown no reserve, who was convinced of my innocence, and did not fear openly to declare it with an energy that might be hurtful to his fortune.

"When I reached the first floor, I saw before me a gentleman of tall stature and noble features: it was Sir Robert Wilson. He introduced me to two persons who were expecting me in the parlour; in one of whom I recognized Mr. Bruce, whom I had met sometimes the preceding winter at the Duchess of St. Leu's, (Queen Hortense). Mr. Hutchinson, to whom the apartments belonged, was a Captain in the English Guards. He received me in a friendly manner. We seated ourselves round a bowl of punch. Our conversation turned on public affairs, and we talked with as much ease and freedom as if we had been together in London. These gentlemen did not appear to entertain the least uneasiness in respect to our next day's journey; and at last, after sitting for about an hour, Sir Robert and Mr. Bruce rose, and the former shaking hands with me, said: 'Be up to-morrow by six o'clock, and be very careful about your dress. You will find here the coat of a captain in the Guards, which you must put on. At eight o'clock, precisely, I shall expect you at the door." "As for me," said Bruce, "I am going to spend three days at the country seat of the Princess de la Moskowa, for you will not want me any longer. My wishes go along with you, and I shall receive accounts from you of my friends."

When they were gone, Mr. Hutchinson offered me

his bed; but I had no desire to sleep, and I laid myself down on a sofa.

* * * * * *

"At last, after having counted every hour of the night, I heard six o'clock strike; I immediately set about my toilet, and at eight o'clock precisely I found Sir Robert Wilson in the street, dressed in his full regimentals, and seated in a pretty gig. Mr. Hutchinson soon appeared also on horseback, and we set off. The weather was beautiful; all the shops were open, everybody in the street, and, by a singular coincidence, they were just, at that moment, putting up in the Place de Grève the gibbet, which, according to custom, is used to execute in effigy persons declared guilty in contumacy.

"We entered the Rue de Clichy, which leads to the barrier of the same name. As I had on the regimentals and cap of the Guards, the English soldiers we met saluted us in the military manner. Two officers we saw on the road appeared very much surprised at seeing with Sir Robert one of their comrades with whom they were unacquainted; but Mr. Hutchinson went up to them and talked to them while we were approaching the barrier. To the right and to the left were two guard-houses, the one English and the other French. The soldiers drew up under arms. Fortunately the French were National Guards, and it was not probable they could know me, as they did not belong to my quarter of the town. We crossed the barrier with a slow step; and when we were out, I thanked Sir Robert with as much gratitude as if we had crossed the barriers of the kingdom. We went on thus to the village of La Cha-

pelle. There we were obliged to take another horse, to be able to go to Compiègne. This horse had been baited at a large inn. When we approached the house, we perceived four gendarmes standing in front of the large door. Sir Robert went up to them: they separated that we might pass; and, to prevent them from paying attention to us, Mr. Hutchinson began a conversation with them. His inquiries were chiefly directed to the number of stables and the quantity of forage and lodgings that were to be found in the village; from all which they concluded that English troops were expected, and one of them invited the English captain to accompany me to the Mayor. "Not at present," he answered; "I am going forward to meet the waggons, and in two hours I shall be back." The conversation could not last long with an Englishman who knew but little of our language. But the horse was quickly changed, and we had the satisfaction, on going away, to exchange salutes with the gendarmes. I then learned that the man who had brought us thus far belonged to M. Auguste de St. Aignan. On the road we met with several gendarmes in pursuit of malefactors, or bearing military correspondence. They all fixed their eyes on us without suspecting anything. I had accustomed myself on seeing them to shut my eyes, but with the precaution of placing my hand on my pistol, fully resolved, if I should be recognized and apprehended, to blow my brains out, for it would have been too great a stupidity to suffer myself to be brought back to Paris.

"We arrived at last at Compiègne. At the entrance of the suburb stood a non-commissioned English officer,

who, on seeing his general, turned to the right and marched with gravity through several small streets, until he stopped at a small house in a very lonely part of the town. There we found an officer who received us very well, and we waited for Sir Robert's carriage, which Mr. Wallis was to bring from Paris with him. That officer had ordered post horses for General Wallis, brother-in-law to Sir Robert Wilson, who travelled under his name. Mr. Wallis arrived about six o'clock, after having been followed a great part of the way by the gendarmes. We had not an instant to lose: the carriage advanced rapidly. We experienced a great delay at Condé, in getting through the town, but it was during the night. At last, next morning, at seven o'clock, we arrived at Valenciennes, the last French city on that frontier. I was beginning to feel more easy, when the postmaster told us to go and have our passports examined by the captain of the gendarmerie. "You forgot, I suppose to read who we were," said Sir Robert calmly, "let the captain come here if he chooses to see us." The postmaster felt how wrong he had acted; and taking our passports, he went himself to get them signed. As it was very long before he came back, I began to be tormented by a most horrible anxiety. Was I going to be wrecked in the harbour? Suppose the officer of gendarmes were to come himself to verify the signatures and to apprehend me? Fortunately, the weather was very cold, it was scarcely daylight, and the officer signed the passports without rising from his bed. We got out of the gate. On the glacis an officer of the preventive service wanted to see whether we were in

order; but having satisfied his curiosity, we went on and stopped no more. We flew along the beautiful Brussels road. From time to time I looked through the black window, to see whether we were not pursued. My impatience augmented at every turn of the wheels. The postilions showed us at a distance a large house that was the Belgium Custom House. I fixed my eyes on that edifice, and it seemed to me as if it remained always equally far off. I imagined that the postilion did not get on. I was ashamed of my impatience, but it was impossible for me to curb it. At last we reached the frontier: we were on the Belgian territories; I was saved! I pressed the hands of Sir Robert, and expressed to him with a deep emotion, the extent of my gratitude. But he, keeping up his gravity, only smiled, without answering me. About half an hour afterwards he turned to me, and said in the most serious tone possible, "Now, pray tell me, my dear friend, why did you not like to be guillotined?" I stared at him with astonishment, and made no reply. "Yes," he continued, "they say that you had solicited, as a favour, that you might be shot?" "It is very true. When a man is guillotined, they put him in a cart, with his hands bound behind his back; and when he is on the scaffold, they tie him fast to a plank, which they lower to let it slip thus under the knife." "Ah, I understand; you did not like to have *your throat cut like a calf.*"

"We arrived at Mons at about three o'clock in the afternoon, and we stopped at the best inn. While dinner was preparing, I wrote a few letters, of which Sir Robert was kind enough to take charge; and after

having gone with me to buy some things I wanted, and having given me two letters, one for the King of Prussia and the other for Mr. Lamb, the English resident in Munich, we separated,—he to return to Paris, and I to go farther into Germany and try to reach Bavaria."

M. Lavallette, once out of the French territory, crossed a part of Germany, and entered Bavaria, the king of which country received him with great cordiality, and protected him against the French ministry, who insisted upon his being delivered up to them. The ever kind and hospitable Queen Hortense, Duchess of St. Leu, the mother of Napoleon III., offered him her house; and her brother, the famous Prince Eugène de Beauharnais lavished on him all the consolations of friendship.

In 1822, letters of pardon, granted by Louis XVIII., restored Lavallette to his native country; but, alas! when he arrived in Paris, in the midst of the congratulations that poured on him from all sides, one voice was wanting to thoroughly cheer him. From that momentous hour, when, with such overpowering energy, she had arranged his escape, and remained an hostage in his place, his wife had not seen him. And now, on his return, she knew him not. The unfortunate lady had lost her reason from the violent agitation consequent on saving him, and from her subsequent lying in when her infant died. M. de Lavallette was overwhelmed at the sight of her. He wrote to King Louis XVIII.:—"Your Majesty has restored to me a country and a home I prized more than life; but all your royal favour can never counter-balance this domestic misfortune." Lavallette retired from public life, and lived in complete

seclusion, which he only once left to go to London in 1826, and support Sir Robert Wilson's election to Parliament. He repaid his wife by his daily care of her, and by unceasing and fond attention during the remainder of his existence. He died in France in 1830: she survived him many years in a hopeless mental state, and died not long ago. Their only child Josephine who shared in the escape, was well married, and, I believe, still survives.

To return to the Count's three rescuers. A letter giving an account of the escape, written from Paris by Sir Robert Wilson to Earl Grey in England, was intercepted by the French police, and led to the arrest of all the three gentlemen, viz.: General Sir Robert Thomas Wilson himself, Captain John Hely-Hutchinson of the Guards, a member of the family of the Irish Earls of Donoughmore, and Michael Bruce, Esq., a Scotch gentlemen, and a scion, I am inclined to think, of the Bruces of Stenhouse, county Stirling. Their trial, which took place at the assize court in Paris, on the 22nd April, 1816, created a great sensation and attracted a very numerous auditory. It commenced at eleven o'clock. The president was M. Desèze *fils;* and M. Hua, advocate-general, acted as public prosecutor. The counsel for the British prisoners was the eminent Dupin, whose death occurred on the 10th of Nov. 1865.

Sir Robert Wilson appeared in grand uniform, decorated with seven or eight orders of different European states, one of which was the cordon of the Russian order of St. Anne. Captain Hutchinson wore the uniform of

his military rank. When the accused were called upon to give their names and qualities, Mr. Bruce said with energy, I am an English citizen. The President observed, that though relying on their correct knowledge of the French language, they did not ask for an interpreter, yet the law of France willed that the accused should not be deprived of any means of facilitating their justification, even when unclaimed; M. Robert was accordingly named and sworn to that office. Four other prisoners were, for aiding in the escape from prison, tried at the same time, viz.: Eberle and Roquette, gaolers; Bonneville, Lavallette's valet de chambre; and a chair-porter, Guérin. The trial commenced by a curious attempt to make the procedure of France accord with that of England.

Mr. Bruce, speaking in French, said, that although he and his countrymen had submitted to the law of France, they had not lost the privilege of invoking the law of nations. Its principle was reciprocity; and as in England French culprits enjoyed the rights of demanding a jury composed of half foreigners, it appeared to them that the same right, or favour, could not be refused to them in France. The decision of several eminent lawyers of their own nation had strengthened them in this opinion; but the justice which had been already shown them by the Chamber of Accusation, had determined them to renounce this right, and they abandoned themselves without reserve to a jury entirely composed of Frenchmen. That, however, no precedent might be drawn from their case against such of their countrymen who might hereafter be in the same situation, they

had made special declaration of the purpose of their renunciation.

M. Dupin moving the court that this declaration might be entered on the record, the Advocate-General expressed his astonishment at a claim in France, for an offence committed in France, of the privileges of a foreign legislature; and opposed entering the declaration. After some argument on the subject, the court pronounced the following decision: "Because every offence committed in a territory is an object of its peculiar jurisdiction, and because the exception demanded by the prisoners is not allowed by any construction of the criminal code of France, the court declares that there is no ground for recording, at the request of the English prisoners, the declaration now made by them; the court therefore orders the trial to proceed."

The act of accusation drawn up by the Procureur-General was then read, which took up more than two hours. The Advocate-General briefly recapitulated the facts in the charge, distinguishing them as they applied to the different prisoners; and remarked that the Chamber of Accusation had already absolved the three Englishmen from the offence of having conspired against the legitimate government of France. After the interrogatories of some of the prisoners, the president addressed himself to Mr. Bruce. To the question of whether it was not to him that the first overture was made of transporting Lavallette out of France: he replied, "If possible I would have effected his escape alone; for I could not refuse a man who had put his life into my hands. I, however, obtained his consent to

confide his secret to one of my friends. I spoke to one friend, who gave me a message to another. I will not name these friends.

Some of the interrogatories and answers that followed are curious:—

President.—Bruce, have you been in Paris some time?

Bruce.—Thirteen months.

President.—You have had communication with the Duc de Vincennes?

Bruce.—That is true, Monsieur le President; but I do not see what my friendship with the Duke has to do with the escape of M. de Lavallette.

President.—You have manifested a great interest for Marshal Ney?

Bruce.—That is also true, and I am far from blushing at it.

President.—It is to you that the condemned Lavallette addressed himself for the means of leaving Paris and France?

Bruce.—The 31st December, or the 1st January, I received an anonymous letter, in which the nobleness of my character was extolled, but I do not know whether I merited all the compliments that were paid to me. It went on to say: the confidence that I inspired determined the author of the letter to inform me that M. Lavallette was still in Paris, and that I could save him. I did not doubt the person who remitted that letter to me: I thought that in an affair of that nature one could not too much avoid indiscretion. The adventure of the escape of M. Lavallette appeared to me to have in it something of romance, and, indeed,

something of the miraculous. I interested myself intensely about him, and I was easily determined to serve him. I know not if I were wrong, but I thought that honour and humanity would not permit me to do otherwise. I would not have placed any one in my confidence, but that I feared in acting alone to compromise him who confided his life to me. I informed a friend, whom I will not name, unless he thinks it proper for me to do so. We thought that it would be advisable to communicate to another friend. We arranged between the three the measures that we should take. On the evening of the 7th January M. de Lavallette went to the apartment of the second friend. I remained with him till twelve o'clock. I shook hands with him and quitted.

President.—Tell us what passed in the apartment of Captain Hutchinson from the moment of the arrival of the condemned Lavallette.

Bruce.—I have not mentioned Captain Hutchinson's name.

President.—But you have made it public by the inference and it is so from the interrogatories in which your two friends have made themselves known?

Bruce.—We have made our interrogatories public because it was important for us to destroy the scandal that was spread regarding our conduct (at this moment Captain Hutchinson requested Mr. Bruce to mention his name). My friend, continued Mr. Bruce, has authorised me to mention his name; I can now admit that it was in Captain Hutchinson's apartment that M. de Lavallette passed the night of the 7th to the 8th of January.

President.—Did you not obtain a wig for the condemned Lavallette?

Bruce.—I had nothing whatever to do with the wig of M. de Lavallette; the measure of the wig that was found in my house concerned a friend who was at Constantinople.

President, to Captain Hutchinson.—It was in your apartment that Lavallette was received on the 7th January?

Hutchinson.—Yes, sir.

President.—After Lavallette entered your lodging did not an unknown person present himself at your door to give to the condemned man two pistols that he had forgotten to take with him?

Hutchinson.—My servant came to me and announced that somebody desired to speak to me. I went out to prevent the unknown person from entering. I perceived in his pocket a double-barrelled pistol.

The first idea that struck me was, that all was discovered, and I prepared to defend myself. I seized the pistol, the stranger did not resist, he only said to me, "You are, then, one of our friends;" I replied in the affirmative; but from precaution I would not permit him to enter my chamber.

President.—When Lavallette left Paris you accompanied him to Compiègne?

Hutchinson.—I did.

President.—That which you did was only to oblige your friend?

Hutchinson.—Not at all, sir. I was not moved by anything but a feeling of humanity.

President, to Wilson.—General Wilson, had you previously known Lavallette?

General Wilson.—I had never seen M. de Lavallette before this event, nor had I the least knowledge of him.

President.—You are charged with having conducted him out of France?

General Wilson.—Yes.

President.—It was you who asked Captain Hutchinson to receive the condemned Lavallette?

General Wilson.—My friend Captain Hutchinson has done nothing but under my influence.

President.—In conducting Lavallette, you passed by Compiègne, and you arrived at the frontier—you took under false names for Lavallette and yourself two passports, that you had the caution to get examined by competent authorities.

General Wilson.—That is true.

President.—Do you know that Lavallette was condemned to capital punishment?

General Wilson.—Without doubt.

President.—Are you aware that Lavallette was condemned as an accomplice of Bonaparte, in having joined a rebellious faction that brought back the usurper?

General Wilson.—I know the history of the return of Napoleon, but I did not look upon M. Lavallette as having taken part in a conspiracy, because I always was convinced that no previous plot had existed to induce Bonaparte to re-enter France. His coming was spontaneous. Moreover, where it was a matter between my two friends and myself of saving M. de Lavallette,

humanity spoke only to our hearts, and we were not at all directed by any political bias.

This open confession rendered superfluous, with respect to them, the testimony of any witnesses; the appearance of *Madame Lavallette* was, however, too interesting to be passed over. At her entrance, a general murmur of feeling or curiosity was heard, and the three gentlemen saluted her with a profound bow. Overpowered by her emotions, she was scarcely able to articulate; at length, being told by the President that she was summoned only on account of some of the accused, who had invoked her testimony, she said, "I declare that the persons who have called me contributed in no respect to the escape of M. Lavallette (meaning *from prison*); no one was in my confidence: I alone did the whole." Being desired to say whether she had ever seen or known the English gentlemen, she looked at them for a moment, and declared that she had never known or seen them before.

At a subsequent audience, April 24th, 1816, M. Dupin spoke for the English gentlemen, and his defence was a splendid piece of oratory. The case he reduced to the two propositions:—1. There was no act of *complicity* between the accused persons and the principal culprit. 2. The fact imputed to them cannot be considered as a crime, nor as an offence. Part of his peroration was as follows:—"In ancient Athens, where the people were remarkable for their frivolity, but where the Areopagus was noted for its justice, a young man was condemned to death for having killed a dove, which, pursued by a hawk, flew to him for safety. It was

adjudged that he who was without pity, could never be a good citizen. And shall we, in the nineteenth century, see men condemned for saving the life of another who put his fate into their hands? . . . . No, this cannot be under the government of a prince whose justice, clemency, and benevolence recommend him equally to the love and the fidelity of his people. Under the rule of a descendant of St. Louis, humanity is amalgamated with Christian charity. This is indeed so, for the ministers of our altars present to us as the triumph of charity the act of that holy personage, St. Vincent de Paul, who did not think he offended the laws of his country when he effected the escape of a poor suffering wretch from the galleys, by himself taking his seat and his chains. These sublime feats of humanity do not fall beneath your jurisdiction. Courts of justice are instituted to punish the crimes, not to proceed against the virtues, of men." He concluded with an earnest recommendation of the accused to the court as *foreigners* and *Englishmen*.

The proceedings having closed, *Sir Robert Wilson* rose, and with dignified confidence delivered an address in French. Having acknowledged that he had been interested in the fate of Lavallette, on political grounds, he declared that such considerations had a very inferior influence on his determination.

"The appeal" (said he) "made to our humanity, to our personal character, and to our national generosity; the responsibility thrown upon us of instantly deciding on the life or death of an unfortunate man, and, above all, of an unfortunate foreigner—this appeal was imperative

and did not permit us to calculate his other claims to our good will. At this cry of humanity we should have done as much for an obscure, unknown individual, or even for an enemy who had fallen into misfortune. Perhaps we were imprudent, but we would rather incur that reproach, than the one we should have merited by basely abandoning him, who, full of confidence, threw himself into our arms: and these very men who have calumniated us, without knowing either the motives or the details of our conduct—these very men, I say, would have been the first to stigmatize us as heartless cowards, if, by our refusal to save M. Lavallette, we had abandoned him to certain death. We resign ourselves with security to the decision of the jury; and if you should condemn us for having contravened your positive laws, we shall not at least have to reproach ourselves for having violated the eternal laws of morality and humanity."

Mr. Bruce delivered, in French, a speech of the same general tenor; his language was animated, and his tone firm and manly.

"Gentlemen (he concluded) I have confessed to you, with all frankness and honour, the whole truth with regard to the part which I took in the escape of M. Lavallette; and notwithstanding the respect which I entertain for the majesty of the laws, notwithstanding the respect I owe to this tribunal, I cannot be wanting in the respect I owe to myself so far as to affirm, that I feel not the least compunction for what I have done. I leave you, gentlemen, to decide upon my fate and I implore nothing but justice."

The President concisely summed up the evidence, and gave his charge with great impartiality and much eloquence. The jury retired to deliberate, and in about two hours returned with a verdict of guilty against Messrs. Wilson, Bruce, and Hutchinson, and not guilty as to the other prisoners, except Eberle the gaoler, whom they convicted of the minor offence of negligence.

The President then read the article of the penal code applicable to the charge proved against the three British subjects, in which the punishment prescribed was imprisonment for a term not exceeding two years, nor less than three months; and without hesitation he pronounced for the shortest allowable term.

Each of the three British subjects was accordingly sentenced to three months' imprisonment and the costs of the trial. Eberle, the gaoler, was sentenced to two years' imprisonment, and after that, to be ten years under the surveillance of the police. The President announced to the convicted that they had three days allowed to appeal to the Court of Cassation. Bruce, Hutchinson, and Wilson, would make no appeal against the judgment and passed their three months of imprisonment at the Conciergerie. It was intimated that Louis XVIII. would willingly have respited them, had they asked his pardon, but this they respectfully declined to do. On their return to England, all parties, Tory, Whig and Radical, received them with enthusiasm. The nobility and fashionable world fêted them, and the public lavished praises on them. The Prince Regent, wishing to act with official strictness, deprived Hutchinson of his appointment as Captain in the Guards, but on his

fellow officers exclaiming against such harshness, he restored him to his regiment and rank.

Mr. Bruce was entertained by the Countess of Bessborough at a *déjeuner* where he met the Duke of Wellington, and received his Grace's congratulations. The electors of Southwark, to mark their sense of Sir Robert Wilson's noble conduct, returned him as their representative to Parliament. Sir Robert, who was a clever writer, as well as a good soldier and an active politician, died in 1849, after a chequered but honourable public career. Captain Hutchinson, who for many years after the trial was known by the *sobriquet* of "Lavallette Hutchinson," died in 1851, third Earl of Donoughmore, which title he inherited from his uncle, the eminent General Lord Hutchinson, second Earl of Donoughmore, who took the command at the close of the victory of Alexandria, after Sir Ralph Abercromby had been borne, mortally wounded, from the field.

The Lavalette name is at this day of important note in France, the Marquis of Lavalette being the present able and popular Minister of the Interior there. It appears, however, that he is no relative of the Count of the escape, and has had naught in common with him but the name, and hardly even that, for it would seem, the count spelt its second syllable with the double *ll*, where the Marquis has but one. In here acknowledging the communication I have had the honour to receive from M. le Marquis, whose obliging amiability fully tallies with that ready and cordial attention one is ever sure to receive from high officials in France, as well as in England,—I must add that I should be very glad

indeed, if I, or rather some one more competent than myself, could take advantage of the Marquis's courtesy, and, by thoroughly searching all French archives relating to the subject, bring out the full details and the whole truth of this most mysterious and most interesting affair—the escape of Lavallette.

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